139

SUPREME COURT OF THE UNITED STATES.

No. ~~75.~~ ~~74~~. 9.

JOHN DREDGE, JOHN A. KEYES, JESSE HESTER, AND CHARLES BALLANCE, PL'FFS IN ER.,

vs.

ROBERT FORSYTH.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

GEO. S. GIDEON, printer, 511 Ninth street, Washington, D. C.

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UNITED STATES OF AMERICA,
Northern District of Illinois, ss.

Pleas in the circuit court of the United States of America for the northern district of Illinois, held at the city of Chicago, in said northern district of Illinois, before the Hon. Thomas Drummond, judge of the district court of the United States for said northern district of Illinois, and (in the absence pro tempore of the Hon. John McLean, one of the justices of the Supreme Court of the United States) sole judge of said circuit court, on Monday, the 3d day of August, of the July term of said court, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the 82d year.

ROBERT FORSYTH
vs.
JOHN DREDGE, JOHN A. KEYES, JESSE HESTER and CHARLES BALLANCE. } Ejectment.

Be it remembed, that heretofore, to wit, on the 10th day of July, in the year of our Lord one thousand eight hundred and fifty-five, in the July term, A. D. 1855, of the circuit court of the United States for the northern district of Illinois, came the said Robert Forsyth, plaintiff in this cause, by Manning and Merriman, his attorneys, and filed in open court his declaration against the said John Dredge, John A. Keys and Jesse Hester, defendants in this suit in the plea aforesaid, together with a notice thereto attached, and also an affidavit of service thereof upon the said defendants, and also at the same time filed his bond for costs in the above entitled cause, which said bond, declaration, notice and affidavit are in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern District of Illinois, ss.

Circuit Court—July term, A. D. 1855.

Know all men by these presents, that I, A. L. Merriman, of the county of Peoria and northern district of Illiniois, am held and firmly bound unto John Dredge, John A. Keys and Jesse Hester, or to the officers of the circuit court of the United States for the northern district of Illinois, in the sum of five hundred dollars, to be paid to said Dredge, Keys and Hester, or to the said officers aforesaid, their certain attorneys, heirs, executors, administrators or assigns or successors in office; to which payment well and truly to be made, I do bind myself, my heirs, executors and administrators, and every of them, jointly, severally and firmly by these presents.

[REC. LXXV, D. T., 1860.]—1

Witness my hand and seal the 10th day of July, in the year of our Lord one thousand eight hundred and fifty-five.

The condition of the above obligation is such, that whereas Robert Forsyth has this day, to wit, at the date of the above written, instituted a suit in the said circuit court of the United States for the northern district of Illinois against John Dredge, John A. Keys and Jesse Hester:

Now, if the said Forsyth, his heirs, executors or administrators, shall well and truly discharge all costs that may accrue and be adjudged against him, the said plaintiff, in the prosecution of said suit, or shall well and truly discharge all costs that may accrue in his behalf if judgment shall pass against the said defendants and the costs fail to be collected of defendants, or all costs which may have accrued in failure of the prosecution of said suit to effect, then this obligation to be void, otherwise of full force and effect.

A. L. MERRIMAN. [SEAL.]

Filed this 10th day of July, A. D. 1855.

WM. H. BRADLEY, *Cl'k.*

In the Circuit Court of the United States in and for the Northern district of Illinois, of the July term in the year of our Lord one thousand eight hundred and fifty-five.

UNITED STATES OF AMERICA,
Northern District of Illinois, ss.

Robert Forsyth, plaintiff in this suit, who is a citizen of the State of Missouri, one of the United States of America, complains of John Dredge, John A. Keys and Jesse Hester, defendants in this suit, who are citizens and inhabitants of the State of Illinois, in the United States of America, of a plea, wherefore they, the said defendants, with force and arms, &c., entered into the following described premises:

For that heretofore, to wit, on the first day of July, in the year of our Lord one thousand eight hundred and fifty-five, the said plaintiff was possessed of certain premises situated in the county of Peoria, in the said State of Illinois, and described as follows, to wit:

That part of claims forty-five and sixty-nine, and part of claims sixty-two and sixty-three, in the village of Peoria, as confirmed by the confirmatory act of Congress, approved March 3d, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," described as follows: commencing at a point in said claim forty-five and sixty-nine, designated on the plat of Ballance's addition to the town of Peoria as the northerly corner of lot one, in block forty-seven; thence on the line of Water street, in said Ballance's addition, southwesterly eighty-eight feet; thence at right angles with said Water street,

two hundred and seventy-one feet ten inches to Front street; thence eighty-eight feet northeasterly on the line of said Front street; thence to the place of beginning; and being so possessed thereof, the said defendants, afterwards, to wit, on the second day of July, in the year of our Lord one thousand eight hundred and fifty-five, entered into such premises, and that they unlawfully withhold from the plaintiff the possession thereof, and said plaintiff avers that he claims title to said premises in fee.

And said plaintiff further avers that the afore described premises, being the matter in dispute, exceed, exclusive of costs, the sum or value of five hundred dollars: whereof said plaintiff says that he is injured and has sustained damages to a large amount, to wit, five hundred dollars; and therefore he sues, &c.

MANNING & MERRIMAN,
Attorneys for Plaintiff.

To the above-named defendants:

Take notice that—

1. On the 8th day of the present term of the circuit court of the United States within and for the northern district of Illinois, now in session at the city of Chicago, in said State of Illinois, on the 10th day of July, A. D. one thousand eight hundred and fifty-five, or as soon thereafter as counsel can be heard, a declaration of which the above is a copy will be filed in said court.

2. That upon filing the same, a rule will be entered, requiring you, such defendants, to appear and plead to such declaration within twenty days after the entry of such rule.

3. That if you neglect so to appear and plead, a judgment by default will be entered against you, and the plaintiff will recover possession of the premises described in said declaration.

Yours, &c.

MANNING & MERRIMAN,
Attorneys for Plaintiff.

Dated July 9th, 1855.

STATE OF ILLINOIS,
County of Peoria.

David D. Irons, sheriff, &c., being first duly sworn, deposes and says that he served a declaration and notice, of which the within and foregoing are copies, upon the within-named defendants, by delivering the same to them personally on the 9th day of July, A. D. 1855.

D. D. IRONS,
Sh'ff P. Co.

Subscribed and sworn to before me this 9th day of July, A. D. 1855.

A. L. MERRIMAN,
U. S. Commissioner.

Filed July 10, 1855.

WM. H. BRADLEY, *Cl'k.*

Whereupon, on the said 10th day of July, in the year of our Lord one thousand eight hundred and fifty-five, of the July term of said court, the following rule was entered upon the record of the proceedings of said court in said cause, to wit:

ROBERT FORSYTH
vs.
JOHN DREDGE, JOHN A. KEYES, and JESSE HESTER. } Ejectment.

Now comes the plaintiff, by his attorney, and files his declaration in ejectment against the defendants, together with a notice thereto attached, and also an affidavit of a due service of a true copy of said declaration and notice upon the defendants; and on motion of the plaintiff, by his attorney, it is considered and adjudged by the court that the cause be docketed, and that the defendants plead thereto within twenty days, or that their default be entered.

And afterwards, to wit, on the 18th day of July, in the year one thousand eight hundred and fifty-five, of the July term of said court, came the said John Dredge, John A. Keys, and Jesse Hester, defendants in this suit, by C. Ballance, their attorney, and filed in said court their plea in the above-entitled cause, which said plea is in the words and figures following, to wit:

In the Circuit Court of Northern district of Illinois, of the July Term, A. D. 1855.

ROBERT FORSYTH
vs.
JOHN DREDGE, JOHN KEYS, JESSE HESTER. } In Ejectment.

Defendants come and defend, when, &c., and say they are not guilty of the trespass and ejectment in said declaration charged against them, in manner and form as the same are therein alleged against them, and of this they put themselves upon the country, &c.

C. BALLANCE, *for Defendants.*

And afterwards, to wit, on the 23d day of July, in the year of our Lord one thousand eight hundred and fifty-six, of the July term, A. D. 1856, of said court, the following, among other proceedings, were had in said cause, and entered of record, to wit:

ROBERT FORSYTH
vs.
JOHN DREDGE et al. } Ejectment.

By agreement of the parties by their attorneys, it is ordered by the court that Charles Ballance, the landlord of the defendants, be made a co-defendant herein.

And afterwards, to wit, on the 24th day of July, in the year last aforesaid, of the said July term of said court, the following further proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH.
vs.
JOHN DREDGE, CHARLES BALLANCE et al. } Ejectment.

Now at this day come the said parties, by their attorneys, and upon issue joined thereupon, came a jury of good and lawful men, to wit, Elisha Putnam, Rufus Ordway, David J. Mixer, William McKee, Thomas Barnett, Peter Stout, Daniel P. Holt, M. Tagart, John Brown, and D. Johnson, and there being only the ten jurors in attendance, it is ordered by the court by agreement of the parties, by their attorneys, that the trial proceed to the ten, and that their finding have the same force and effect as if twelve jurors had been empanelled, and the said jurors having been duly elected, tried, and sworn, and after hearing the evidence and receiving instructions from the court, the jury returned the following verdict into court, to wit: We, the jury, find the defendants guilty of unlawfully withholding from the possession of the plaintiff only that part of the land and premises described in his declaration, which is covered by said claims sixty-two and sixty-three in said declaration, which said land and premises described in said declaration are as follows, to wit: those certain premises situated in the county of Peoria, in the State of Illinois, and described as follows, to wit: that part of claims forty-five and sixty-nine, and part of claims sixty-two and sixty-three, in the village of Peoria, as confirmed by the confirmatory act of Congress, approved March 3, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," described as follows: commencing at a point in said claims forty-five and sixty-nine, designated on the plat of Ballance's addition to the town of Peoria as the northerly corner of lot one in block forty-seven; thence on the line of Water street in said Ballance's addition southwesterly eighty-eight feet; thence at right-angles with said Water street two hundred and seventy-one feet ten inches to Front street; thence eighty-eight feet northeasterly on the line of said Front street; thence to the place of beginning. We also find the estate established in the plaintiff on the trial to be an estate in fee simple, and we assess the damages of the plaintiff at the sum of one cent.

It is thereupon ordered and adjudged by the court that the plaintiffs have and recover of and from the said defendants possession of the said described land and premises, according to the force, form, and effect of his said recovery, and that he have a writ of possession therefor, and that he also have and recover of the said defendants the said sum of one cent, his damages as aforesaid assessed, together with his costs by him about his suit in this behalf expended, amounting to the sum of dollars and cents, and that he have execution therefor.

And thereafter, to wit, on the 30th day of July, in the year last aforesaid, of the term aforesaid, the following further proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH
vs. } Ejectment.
JOHN DREDGE, CHARLES BALLANCE et al.

The defendants, by their attorney, come and move the court to vacate the judgment entered against the defendants herein, on the 24th of July instant, and to grant them a new trial, and it appearing satisfactorily to the court that the defendants have paid all the taxed costs herein, it is thereupon considered and adjudged by the court that said judgment be vacated and set aside, the cause redocketed, and a new trial had of the cause.

And thereafter, to wit, on the 1st day of August, in the year of our Lord one thousand eight hundred and fifty-seven, of the July term of said court, the following proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH
vs.
JOHN DREDGE, JOHN A. KEYS, JESSE HESTER, and CHARLES BALLANCE. } Ejectment.

Now come the parties, by their attorneys, and upon issue joined thereupon came a jury of good and lawful men, to wit, W. A. Baldwin, E. W. Lusk, John Mosier, Francis S. Gould, Samuel Hoard, John Russell, Luther Lowell, William H. Bolton, F. A. Chapman, Benjamin C. Davis, sen., J. Woodbury, and Silas Bruce, who were duly elected, tried and sworn, and after hearing the testimony and a part of the arguments of counsel, the hour of adjournment having arrived, the concluding arguments of counsel are postponed until Monday morning next.

And thereafter, to wit, on the 3d day of August, in the year last aforesaid, of the July term, A. D. 1857, said circuit court, the following further proceedings were had in said cause and entered of record, to wit:

ROBERT FORSYTH
vs.
JOHN DREDGE, JOHN A. KEYS, JESSE HESTER, and CHARLES BALLANCE. } Ejectment.

Now come again the parties, by their attorneys, and now come also the jury heretofore empanelled in this cause, and after hearing the concluding arguments of counsel, and receiving instructions from the court, the jury retired to consider of their verdict, and after a short absence they returned into court with the following verdict, to wit: We, the jury, find the defendants guilty of unlawfully withholding from the possession of the plaintiff the following described portion of the real estate and premises described in the plaintiff's declaration, to wit: so much of claim sixty-three confirmed to Antoine Lapance by the confirmatory act of Congress, approved March 3, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," as is covered by the southwesterly half of lot No. one in block forty-seven in Ballance's addition to the town of Peoria; we also find the estate established in the plaintiff upon the trial to be an estate in fee simple, and assess his damages at the sum of one cent.

It is thereupon considered and adjudged by the court that the plaintiff have and recover of the defendants possession of the said described real estate and premises, according to the force, form, and effect of his said recovery, and that he have a writ of possession therefor; and that he also have and recover of the defendants the said sum of one cent, his damages, together with his costs by him about his suit in this behalf expended, amounting to the sum of sixty dollars and twenty-five cents, and that he have execution therefor.

And the defendants, by their attorney, move the court for a new trial.

And afterwards, to wit, on the 8th day of August, in the year of our Lord one thousand eight hundred and fifty-seven, came Charles Ballance, attorney for defendants, and filed in the office of the clerk of said court his appeal bond, which said appeal bond is in the words and figures following, to wit:

Supreme Court of the United States.

CHARLES BALLANCE
vs.
ROBERT FORSYTH. } In Error.

Know all men by these presents, that we, Charles Ballance and are held and firmly bound unto the above named Robert Forsyth, in the sum of one thousand five hundred dollars, to be paid to the said Robert Forsyth, his executors or ad-

ministrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our *an* each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this fourth day of August, A. D. 1857.

Whereas the above named Charles Ballance has prosecuted a writ of error to the Supreme Court of the United States, to reverse a judgment rendered in favor of said Robert Forsyth, and against said Ballance and John Dredge, by the circuit court of the United States for the northern district of Illinois:

Now, therefore, the condition of the above obligation is such, that if the above named Charles Ballance shall prosecute his said writ of error to effect, and answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and virtue.

C. BALLANCE. [SEAL.]

Sealed and delivered in presence of—
WM. F. BRYAN. [SEAL.]

Aug. 8, 1857, approved.

THOMAS DRUMMOND.

Filed August 8th, 1857.

WM. H. BRADLEY, *Cl'k.*

Whereupon a writ of error was issued out of the office of the clerk of said court, and filed in said cause, which said writ of error is in the words and figures following, to wit:

UNITED STATES OF AMERICA,
Northern District of Illinois, ss.

The United States of America to the Judges of the Circuit Court of the United States for the Northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said court before you, between Robert Forsyth and against John Dredge, John A. Keyes, Jesse Hester, and Charles Ballance, a manifest error hath happened, to the great damage of the said John Dredge, John A. Keyes, Jesse Hester, and Charles Ballance, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at

Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this eighth day of August, A. D. 1857, and of our independence the 82d year.

[L. S.]

Filed August 8th, 1857.

W. H. BRADLEY, *Cl'k.*

The following exceptions were made by defendants upon the trial of this cause, and were allowed by the court, to wit:

U. S. Circuit Court, Northern district of Ills.—July Term, A. D. 1857.

ROBERT FORSYTH vs. JOHN DREDGE et al. } In Ejectment.

Be it remembered, that on the trial of the above entitled cause, the plaintiff, to maintain the issue on his part, introduced a patent from the United States to the legal representatives of Antoine Lapance, which is as follows:

The United States of America to all to whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate, numbered three, of the registers and receivers of the land office at Edwardsville, Illinois, whereby it appears that in the report, dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Antoine Lapance is entered as number sixty-three, and the claim of Simon Bertrand to the same lot is entered as number sixty-two; and whereas it further appears, from the certificate aforesaid, that the said Antoine Lapance is the inhabitant or settler within the purview of the confirmatory act of Congress, approved 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," and that it has appeared to the satisfaction of the said register and receiver, that the said inhabitant or settler did not, prior to the said act of 3d March, 1823, receive a confirmation of claims or donation of any tract of land or village lot from the United States, and that the legal representatives of the said Antoine Lapance, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot which is described as follows, to wit:

The lot containing twenty-seven thousand four hundred and forty-nine square feet and seven hundredths of a square foot, surveyed and designated as covered by said claims numbers sixty-three and sixty-two, in the southwest fractional quarter of fractional section nine, in township eight north, of range eight east of the fourth principal meridian, Illinois, according to the survey, approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri; and whereas, in the confirmatory act aforesaid, of the 3d March, 1823, it is provided, that nothing in this act contained shall be so construed as to affect the rights, if any such there be, of any other person or persons to the said lots, or any part of them, derived from the United States, or any other source whatever, &c.:

Now know ye, that in consideration of the premises, and pursuant to the second section of the act aforesaid, of the 3d March, 1823, there is granted by the United States to the said legal representatives of Antoine Lapance, and to their heirs, the lot of land above described, subject to the proviso aforesaid: to have and to hold the said lot of land, with the appurtenances, unto the said legal representatives of Antoine Lapance, and to their heirs and assigns forever, subject to the proviso aforesaid.

In testimony whereof, I, James K. Polk, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the first day of February, in the year of our Lord one thousand eight
[L. S.] hundred and forty-seven, and of the independence of the United States the seventy-first.

By the President: JAMES K. POLK.

By J. KNOX WALKER, *Sec'y.*

Recorded, vol. 10, pages 122 and 123. Ex'd.

S. H. LAUGHLIN,
Recorder of the General Land Office.

2d. An act of Congress approved May 15th, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

3d. An act of Congress approved March 3, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

4th. A plat of the French village of Peoria, as surveyed by Joseph C. Brown, and approved by the surveyor general of Illinois and Missouri, which is as follows:

[*For map see original, p.* 20.]

Description.

Begin at the upper end of the southeastern edge of First street, on the northwest bank of Lake Peoria; thence N. 46½° W. one hundred feet, to the eastern corner of unclaimed lot "A," 420 feet 10 inches; the north corner of said unclaimed lot "A" at the northeast, and of the S. E. edge of Second street, 486 feet 10 inches, to the N. E. end of the N. W. edge of Second street; thence S. 43½° W. with the N. W. edge of Second street, 256 feet 8 inches, to the intersection with the N. E. edge of street "A;" thence N. 46½° W. with the N. E. edge of street "A," 320 feet 10 inches, to the N. W. end of the N. E. edge of said street "A;" thence S. 43½° W. 66 feet, the north corner of lot No. 66, at the N. W. end of the S. W. edge of said street "A," 108 feet 9⅓ inches; the west corner of lot No. 66 and north corner of unclaimed lot "C," 322 feet 8 inches; the west corner of unclaimed lot "C" and the north corner of lot No. 12, 408 feet 2⅔ inches; the west corner of lot No. 12 and the N. W. end of the N. E. edge of street "B," 474 feet 2⅔ inches; the N. W. end of the S. W. edge of street "B" and the north corner of lot No. 8, 709 feet 6 inches; the north corner of lot No. 15, 795 feet and ⅔ of an inch to the west corner of lot No. 8, which is also the west corner of lot No. 15, and east corner of lot No. 61, and north corner of lot No. 28; thence N. 46½° W. with the N. E. boundary of lot No. 61, 15 chains and 40 links, to the north corner of lot No. 61; thence with the N. W. boundary of lot No. 61, S. 43½° W., 5 chains and 52½ links, to the west corner of lot No. 61; thence with the S. W. boundary of lot No. 61, S. 46½° E. 4 chains and 94 links, to the north corner of lot No. 51, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 61; thence with the N. W. boundary of lot No. 51, S. 43½° W., 4 chains and 88 links, to the west corner of lot No. 51; thence with the S. W. boundary of lot No. 51, S. 46½° E., 6 chains and 10 links, to the north corner of lot No. 49, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 51; thence with the N. W. boundary of lot No. 40, S. 43½° W., 3 chains and 23⅓ links, to the west corner of lot No. 43; thence with the S. W. boundary of lot No. 40, S. 46½ E., 4 chains and 34 links, to the N. W. end of the N. E. edge of street "E," on the S. W. boundary of lot No. 40; thence S. 43½° W. 66 feet, to the N. W. end of the S. W. edge of street E and the north corner of unclaimed lot E, 322 feet 8 inches, to the east corner of lot No. 31, at the intersection of the N. E. boundary thereof with the N. W. boundary of unclaimed lot E; thence with the N. E. boundary of lot No. 31, N. 46½° W., 13 chains and 16 links, to the north corner of lot No. 31; thence with the N. W. boundary of lot No. 31, S. 43½° W., 3 chains and 88 links, to the west corner of lot No. 31, at the intersection of the N. W. boundary thereof with the N. E. boundary of lot No. 37; thence with the N. E. boundary of lot No.

37, W. 46½° west, 5 chains and 5½ links, to the north corner of lot No. 37; thence with the N. W. boundary of lot No. 37, S. 43½° W., 7 chains and 66 links, to the west corner of lot No. 37; thence with the southwest boundary of lot No. 37, S. 46½° E., 6 chains and 67½ links, to the north corner of lot No. 67, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 37; thence with the northwest boundary of lot No. 67, south 43½° west, 6 chains, to the west corner of lot No. 67; thence with the southwest boundary of lot No. 67, south 46½° east, 6 chains and 38 links, to the south corner of lot No. 67, on the N. W. boundary of lot No. 64; thence S. 43½° W., 1 chain and 66 links, the west corner of lot No. 64 and north corner of lot No. 20, 7 chains and 61 links, the west corner of lot No. 20 and north corner of lot No. 48, 11 chains and 86 links, to the west corner of lot No. 48; thence with the S. W. boundary of lot No. 48, S. 46½° E., 6 chains and 88 links, to the point of intersection of the S. W. boundary of lot No. 48, with the section line between sections 9 and 16, township 8 north, range 8 east, of the 4th principal meridian, which point is 13 chains and 93 links N., 89½° W. of the corner to fractional sections 9 and 16 on the lake, 8 chains, to the south corner of lot No. 48; thence with the southeast boundary of lot No. 48, N. 43½° E. 1 chain and 6 links, the point of intersection of the S. E. boundary of lot No. 48, with the section line between sections 9 and 16, township 8 north, range 8 east, of the 4th principal meridian, which point is 12 chains and 38 links N. 89½° W. of the corner to fractional sections 9 and 16, on the lake, 4 chains and 25 links, to the east corner of lot No. 48 on the S. W. boundary of lot No. 20; thence with the S. W. boundary of lot No. 20, S. 46½° E., 2 chains, to the south corner of lot No. 20; thence N. 43½° E., 5 chains and 95 links, the east corner of lot No. 20 and south corner of lot No. 64, 13 chains and 61 links, the east corner of lot No. 64 and south corner of lot No. 43, 21 chains and 27 links, to the east corner of lot No. 43 and south corner of lot No. 34, at the S. W. end of the N. W. edge of Second street; thence S. 46½° E., 66 feet, the S. W. end of the S. E. edge of Second street and west corner of lot No. 33, 386 feet 10 inches, the south corner of lot No. 33, 491 feet 1⅓ inches, to the lower end of the S. E. edge of First street, on the N. W. bank of Lake Peoria; thence along the N. W. bank of Lake Peoria the following courses and distances: N. 38° E., 176 links; thence N. 42° E., 432 links; thence N. 17¾° E., 150 links; thence N. 78° E., 72 links; thence N. 47½° E., 417 links; thence N. 37° E., 188 links; thence N. 44¾° E., 2,448 links, to the place of beginning.

Then, for connection with the public surveys, run from said place of beginning along the N. W. bank of Lake Peoria, the following courses and distances: N. 44¾° E., 1,081 links; thence N. 50¾° E. 1,300 links to the point of intersection of the section line between sections 9 and 10 with the N. W. bank of Lake Pe-

oria, which point is 2,406 links S. 0° 30′ W. of the corner to sections 3, 4, 9, and 10, township 8 north, range 8 east of the 4th principal meridian; also, from the lower end of the S. E. edge of First street, the following courses and distances along the banks of the lake were taken for connection: S. 51¾° W., 198 links; thence S. 39° W., 819 links; thence S. 41¼° W., 216 links; thence S. 49½° W., 287 links; thence S. 85° W., 116 links, to the point of intersection of the section line between sections 9 and 16, township 8 north, range 8 east of the 4th principal meridian, which is 2,510 links S. 89° 30′ E. of the corner to sections 8, 9, 16, and 17, of said township.

Surveyed on the several days designated in the foregoing separate descriptions of the lots by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States of Illinois and Missouri, bearing date 11th of April, 1837.

Examined and approved this first day of September, 1840.

(Signed) WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Missouri.

SURVEYOR'S OFFICE,
Saint Louis, May 2, 1849.

The foregoing plat and description of the out-boundaries of the new village of Peoria, in the State of Illinois, is correctly copied from pages 79 and 80, of a book on file in this office, entitled Records of Surveys, Peoria, Illinois.

F. R. CONWAY,
Surveyor of the Public Lands in the States of Illinois and Missouri.

To the introduction of said plat in evidence defendants objected, because the Secretary of the Treasury was the proper officer to certify to a copy, but the court overruled said objection, and said plat was given in evidence.

5th. A plat of French lot No. 63, which was objected to for the same reason, but the objection overruled, and said plat was given in evidence. Said plat is as follows:

Claim No. sixty-three, "situate in the southwest fractional quarter of fractional section 9, in fractional township 8, north of the base line, range 8 east of the 4th principal meridian."

Plat and description of the survey of a lot in the new village of Peoria, in the State of Illinois, confirmed to Antoine Lapance by an act of Congress approved the 3d of March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," it being No. 63 of the report made by the regis-

ter of the land office at Edwardsville, in pursuance of an act of Congress approved the 15th day of May, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

[*Here follows plat, page* 26.]

"Description."

Commence at a post in the N. W. edge of First street, which post is the south corner of this lot, and east corner of lot No. 59; thence N. 46½° W., 320 feet 10 inches, to a post in the S. E. edge of Second street, which post is the west corner of this lot, and north corner of lot No. 59; thence with the S. E. edge of Second street, N. 43½° E. 85 feet 6 inches and ⅔ of an inch, to a post the north corner of this lot, and west corner of the survey of claims numbered 45 and 69; thence S. 46½° E., 320 feet 10 inches to a post in the N. W. edge of First street, which post is the east corner of this lot, and south corner of the survey of claims numbered 45 and 69; thence with the N. W. edge of First street, S. 43½° W., 85 feet 6 inches and ⅔ of an inch, to the place of beginning.

The lot contains 27,449 square feet and $\frac{7}{100}$ of a square foot of land, equal to 24,000 square feet French measure; and it is also confirmed to Simon Bertrand. See claim No. 62, the survey of which is identical with survey.

Surveyed on the 1st day of May, 1837, by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States of Illinois and Missouri, bearing date the 11th of April, 1837.

Examined and approved this first day of September, 1840.

WILLIAM MILBURN,
Surveyor of the Public Lands in the States of Illinois and Missouri.

OFFICE OF THE SURVEYOR GENERAL
FOR ILLINOIS AND MISSOURI,
St. Louis, March 10th, 1857.

The above plat and description of claim No. 63, is correctly copied from page 63 of the record of the survey of Peoria lands on file in this office.

JNO. LOUGHBOROUGH,
Surveyor General.

6. He then offers in evidence so much of Edward Cole's report made to the Secretary of the Treasury on the 10th of November, 1820, as has any reference to claim 63, as contained in the 3d volume of the American State Papers relating to public lands,

commencing on page 421, a printed volume purporting in its title-page to have been selected and edited under the authority of the Senate of the United States, by Walter Lowrie, Secretary of the Senate, and printed by Duff Green, and dated 1834.

To the reading of which the defendant objected on the ground that there was nothing on the title-page of the book to show that the House of Representatives or their secretary, Mr. Franklin, had anything to do with it; which objection the court overruled, and said report was read in evidence by plaintiff.

7. He then offered in evidence a deed from Nicholas Glodon and wife, and Basil Lecompt and wife, to Laurent Pensoneau, which is as follows:

FEBRUARY, 11th, 1846.

This indenture, drawn and entered into, this third day of January, in the year of our Lord one thousand eight hundred and forty-six, between Madeline Glodon, wife of Nicholas Glodon, and Nicholas Glodon, Bazil Lecompte and Monilque, his wife, all of the county of St. Clair, State of Illinois, of the first part, and Laurent Pensoneau, of the same county and State, of the second part, witnesseth: that for and in consideration of the sum of one hundred and twenty dollars, the receipt whereof is hereby acknowledged, the said party of the first part have granted, bargained, and sold, and by these presents do grant, bargain, sell, quit-claim, transfer, and convey unto the said Laurent Pensoneau, his heirs and assigns, forever, all their right, title, and interest in and to certain lots or pieces of ground in and adjoining the village of Peoria, in Peoria county, State of Illinois, to wit:

One lot described in patent certificate of the receiver and register of the land office at Edwardsville, No. 24, for claim No. 64, which is an out-lot or field, containing above nine arpents of land, situated near the village of Peoria, bounded on the north by an out-lot or field of Felix Fontaine, and on the south by a field of Perre La Vasseur, dit Chamberlin; being situated on the southwest fractional quarter of section No. nine (9), township No. (8) north, range No. eight (8), east of the fourth principal meridian, according to the survey approved the 1st September, 1840, by the surveyor of the public lands for the States of Illinois and Missouri.

Also one other tract contained in the aforesaid register and receiver's patent, certificate No. 13, which is for claim No. 63, (sixty-three), which is a village lot, confirmed, as well as the former tract, to Antoine Lasseur, being eighty-feet in front, more or less, by about three hundred feet in depth (French measure), and bounded northwardly by a lot occupied Louis Burnete, eastwardly by a street separating it from the Illinois river, southwardly by unoccupied land, and westwardly by a street; the same being situated in the southwest fractional quarter of section nine (9), in

township No. eight north, range No. eight (8), east of the 4th principal meridian, in the said village of Peoria, according to the same survey above referred to: to have and to hold the same to his own proper use and behoof, the said Laurant Personeau, his heirs and assigns, forever.

The said party of the first part aver, that when Antoine Lasseur died he left the said Madeline Glodon (the Madeline Lasseur), his widow, and only five children, to wit: Moneque (now wife of Bazil Lecompte), Elizabeth (afterwards wife of John Hebert), Bariel, Angeline, and Maria.

That Elizabeth and John Hebert, her husband, Bazil, Angelique, and Maria, are now all dead. Bazil, Angelique, and Maria died without issue; that Bazil and Angelique died since 1840; that Maria died about A. D. 1825; that Elizabeth and husband died in A. D. 1844, leaving one only child, John Hebert by name, aged about five years. The said party of the first part further covenants that they have never before sold their interests in said lands, and that they own the entire of said lands, except the interest of said John Herbert, minor.

In testimony whereof, the said party of the first part have hereunto set their hands and seals, the day and year first above written.

NICHOLAS his ⋈ mark. GLODON. [SEAL.]

MAGDELINE her ⋈ mark. GLODON. [SEAL.]

BAZIL his ⋈ mark. LECOMPT. [SEAL.]

MONIQUE her ⋈ mark. LECOMPT. [SEAL.]

Signed, sealed, and delivered in presence of—
VITAL JAROT,
NARCISSE PENSONEAU.

STATE OF ILLINOIS,
St. Clair County.

I, Vital Jarrot, a justice of the peace, in and for said county, do certify that Nicholas Glodon and Magdeline Glodon, his wife, Bazil Lacompt and Monique Lacompt, his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in and who executed the same, did each acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned, and the said Magdeline Glodon and Monique Lacompt having each by me been made acquainted with the contents of said deed, and examined separate

and apart from their said husbands, acknowledged that they had executed the same, and each relinquished and conveyed their right to the premises therein mentioned, voluntarily, freely, and without compulsion of their respective husbands.

Given under my hand and seal, this third day of January, in the year of our Lord one thousand eight hundred and forty-six.

VITAL JARROT, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, ss.

I, William McClintock, clerk of the county commissioners' court of the aforesaid county of St. Clair, do hereby certify that Vital Jarrot, whose name is subscribed to the foregoing instrument of writing, was at the time of signing the same (namely, the third day of January, A. D. 1846), an acting justice of the peace, within and for the said county of St. Clair, regularly commissioned and qualified, and as such, full faith and credit are due, of right ought to be given to all his official acts.

In witness whereof, I have hereunto set my hand and seal of said court at office in Bellville, the 6th day of February, A. D. 1846.
[L. S.]

WM. McCLINTOCK,
Clerk C. C. C. St. C. C.

LAND OFFICE, EDWARDSVILLE, ILLINOIS,
August 29th, 1845.

Certificate No. 24.

It is hereby certified, that in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Antoine Lapance is entered as No. 64, and the said Antoine Lapance being the inhabitant or settler within the purview of the confirmatory act of Congress, approved 3d March, 1823, entitled An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois, and it appearing to the undersigned that the said inhabitants or settlers did not, prior to the said act of 3d March, 1823, receive a confirmation of claims or donation of any tract of land or village lot from the United States, therefore, be it known, that the legal representatives of the said Antoine Lapance, in virtue of the confirmatory act aforesaid, *and* entitled to a patent for the lot of land described as follows, to wit:

An out-lot or field containing about nine arpents of land, situated about one-fourth of a mile from Peoria, and bounded on the north by an out-lot or field of Felix Fountaine, and on the south by the field of Pierre La Vassieur (*did* Chamberlaine), in the southwest fractional quarter of section 9, township 8 north, 8 east of the fourth principal meridian, in the State of Illinois, according to

the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri.

JACOB IMLY,
Register.
JOHN G. CAMERON,
Receiver.

STATE OF ILLINOIS,
Peoria County, ss.

I, Enoch P. Sloan, clerk of the circuit court and ex officio recorder for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a full and correct copy of a deed and of the accompanying certificates thereof, as the same stand recorded on pages 165 and foll'g, in book "Q" in the recorder's office in said county.

[L. S.] In witness whereof, I hereto set my hand affix the seal of said court at office, this 5th March, 1857.

ENOCH P. SLOAN, *Clerk.*

STATE OF ILLINOIS,
County of Peoria, ss.

Robert Forsyth, being first duly sworn, says that the original deed from Nicholas Glodon and Magdeline, his wife, Bazil Lecompte, Monique, his wife, to Laurant Pensoneau, of which the within is a copy, is not in the posse'n or control of deponent; that he has had possession of the same; that it went into the possession of deponent's attorneys, Manning & Merriman, and that he is informed by them that the same is lost.

ROBERT FORSYTH.

Subscribed and sworn to before me this ninth day of March, 1857.

[L. S.] Witness my hand and seal notarial, the day and year aforesaid.

BERNARD BAILEY, *N. P.*

To the reading of which deed defendant objected, because it did not pass the estate of a married woman, but the court overruled said objection, and said deed was given in evidence.

8th. He read without objection a deed dated April 17th, 1854, conveying all Elizabeth Pensoneau's interest in the premises to Robert Forsyth, the plaintiff.

9th. A deed conveying all the interest of Louis P. Pensoneau and wife *into* premises to Narcisse Pensoneau on the 23d of June, 1851.

10th. He read a deed dated March 11, 1850, conveying all the interest of Mary Louise Byrne to Narcisse Pensoneau.

11th. A deed dated June 16th, 1851, conveying all the interest of Francis Pensoneau to Narcisse Pensoneau.

12th. A deed dated Aug. 13, 1852, conveying all Paschal Pensoneau's interest in the premises to Edward Pensoneau.

13th. Deed dated June 29, 1854, conveying all the interest in the premises of Narcisse Pensoneau and Edward Pensoneau to Robert Forsyth.

14th. A deed dated June 28, 1854, conveying all the interest of Charles Pensoneau in the premises in dispute to Robert Forsyth, which deeds respectively conveyed the interest of the parties to the land in controversy.

15th. A copy of a record from Peoria county, in a case wherein Robert Forsyth was plaintiff, and Joseph Trotier and others were defendants, together with a deed from George S. Blakeley to Robert Forsyth, which record and deed are as follows:

Be it remembered, that heretofore, to wit, on the twenty-fourth day of October, in the year of our Lord one thousand eight hundred and fifty-four, there was filed in the office of the clerk of the circuit court of Peoria county, in the State of Illinois, a petition for partition, precipe, security for costs and exhibits referred to in said petition, which are as follows, to wit:

Petition.

In the Peoria Circuit Court, to November Term, 1854.

STATE OF ILLINOIS,
Peoria County, ss.

To the Hon. Onslow Peters, Judge of the Peoria County Circuit Court, in the State of Illinois, in chancery sitting:

The petition of Robert Forsyth respectively represents unto your honor, that he, together with the other persons hereinafter, are the owners as tenants in common of the following tract or lot of land, situate in the county of Peoria and State of Illinois, and known and described as follows, to wit: A certain French lot, known as lot No. 63, according to the map of the village of Peoria, being the same lot confirmed by the act of Congress of March 3d, 1823, to Antoine Lapance, and afterwards patented to the legal representatives of the said Antoine Lapance; said lot being about eighty-five feet in front, by about three hundred feet in depth.

Petitioner further states, that he is the owner in fee simple of sixteen twenty-fourth parts, or two-thirds of said lot, and that the remaining portion of the same is owned as follows, to wit: One twenty-fourth part of the same is owned by Joseph Trotier; one twenty-fourth part by Amble Tramble and Adale Paran, wife of Gabriel Paran, and the remaining six twenty-fourth parts, or one-fourth of the same, by John Herbert, junior, and that said lot is

owned by said parties or owners as tenants in common, each being entitled to an undivided portion of said lot, as above stated.

Petitioner states that he derives title to said premises in the manner following, to wit: Said lot was, by act of Congress of March 3d, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," confirmed to Antoine Lapance, and was afterward patented by the United States Government to the legal representatives of the said Antoine Lapance.

That the said Antoine Lapance became deceased without having conveyed said land, and died intestate, leaving a widow, Magdaline Lapance, and five children, named as follows, to wit: Monique, Elizabeth, Baril, Ingeline, and Maria Lapance, who were his only heirs-at-law; that Elizabeth afterwards intermarried with John Hebert, by whom she had one child named John Hebert, junior; that the said Elizabeth and her husband both died about the year 1844, leaving the said John Hebert, jun. her only heir; that the said Bariel, Angeline, and Maria, all died previous to the year 1844, without issue.

That previous to the year 1846, Magdaline Lapance, widow of Antoine Lapance, deceased, intermarried with Nicholas Glodon, and the said Monique Lapance, daughter of said Antoine Lapance, intermarried with Bazil Le Compt, and that on the 3d day of January, 1846, the said Magdeline Glodon and the said Monique La Compt, together with the said John Hebert, jun., were the sole and only owners to said premises; that the said Magdaline Glodon and Monique Le Compt were the owners in fee simple of three undivided fourth parts of the same, and the said John Hebert, jun. the owner of the other fourth part of said lot.

Petitioner further states that on or about the 3d day of January, A. D. 1846, the said Magdaline Glodon, together with her husband, Nicholas Glodon, and Monique Le Compt, together with her husband, Bazil Le Compt, joined in a conveyance and deeded all their interest in and to the said premises to one Laurant Pensoneau, a copy of which said deed is herewith filed as an exhibit, marked "A," and by which said deed of conveyance the said Laurant Pensoneau became the owner of three undivided fourth parts of said lot.

Petitioner further states, that the said Laurant Pensoneau departed this life on or about the day of , A. D. 18 , intestate; that at the time of his death he left no children or descendants of a child or children, but that he left a widow and nine brothers and sisters, or their descendants, as his heirs and only heirs-at-law; that the names of said heirs are as follows, to wit: Elizabeth Pensoneau, widow, entitled to one-half of said $\frac{3}{4}$ of said lot; Charles, Paschal, Francis, Edward, Lewis P., and Narcisse Pensoneau, brothers, and each entitled to one ninth part of the

other half of said ¾ of said lot; and Mary Louisa Byrne, daughter and only heir of a deceased sister of said Laurant Pensoneau, also entitled to one-ninth of the one-half of said three-fourths, equal to one twenty-fourth of the whole of said lot; Joseph Trotier, son and only heir of Mary Trotier, a deceased sister of said Laurant Pensoneau, the father of said Joseph, also being dead, also entitled to one twenty-fourth part of said lot, and Amable Tramble, Adale Paran, who are the children and only heirs of Bridget Tramble, a deceased sister of said Laurant Pensoneau, the father of said children also being dead, and who are together entitled to one-ninth of one-half of said ¾ of said lot, or one twenty-fourth part of the whole of said lot, making the whole of said three-fourths.

Petitioner further states, that Elizabeth Pensoneau, widow of said Laurant Pensoneau, by her deed of conveyance dated the 17th day of April, A. D. 1854, conveyed all her interest in and to said premises to your petitioner, a copy of which deed is herewith filed, marked exhibit "B," and the original will be produced on the hearing of this cause.

That Charles Pensoneau, brother of said Laurant Pensoneau, dec'd, by his deed of conveyance dated the 28th day of June, A. D. 1854, conveyed all his interest in and to said premises to your petitioner, a copy of which deed is herewith filed as an exhibit, marked "C," and the original will be produced upon the hearing of this cause.

That Paschal Pensoneau, brother to said Laurant Pensoneau, dec'd, conveyed all his interest to said premises to Edward Pensoneau, another brother, by deed dated August 3d, 1852, a copy of which said deed is herewith filed as an exhibit, marked "D," and the original will be produced on the hearing of this cause.

That Francis Pensoneau, by his deed dated June 16th, 1851, conveyed all his interest in said premises to Narcisse Pensoneau, both brothers of Laurant Pensoneau, dec'd, a copy of which deed is herewith filed as an exhibit, marked "E," and the original will be produced on the hearing of this cause.

That Mary Louisa Byrne, only heir of a deceased sister of said Laurant Pensoneau, conveyed all his interest to the said Narcisse Pensoneau, by deed dated March 11th, 1850, a copy of which said deed is herewith filed as an exhibit and marked "F," and the original will be produced on the hearing of this cause.

That the said Louis P. Pensoneau, brother of said Laurant Pensoneau, conveyed all his interest to said premises to the said Narcisse Pensoneau, by his deed dated the 23d day of June, A. D. 1851, a copy of which deed is herewith filed as an exhibit, marked "G," and the original will be produced on the hearing of this cause.

That the said Edward Pensoneau and wife and Narcisse Pen-

soneau and wife, by their deed of conveyance dated the 29th day of June, A. D. 1854, conveyed to your petitioner all the interest which they then had, both by virtue of the above conveyances and as heirs of said Laurant Pensoneau, deceased, making $\frac{6}{9}$ of one-half of the said three-fourths, or 6 twenty-fourths of the whole lot, to petitioner, a copy of which deed is herewith filed as an exhibit, marked "H," *any* the original will be produced on the hearing of this case.

That the above deed of conveyance conveys to your petitioner 16 twenty-fourth parts of the said lot, or two-thirds, to which portion he claims to be the owner in fee simple.

Petitioner further states that Joseph Trotier is the owner of one undivided 24th part of said lot, to which he derives title as the only heir-at-law of Mary Trotier, who was a sister of said Laurant Pensoneau, and entitled to one 9th part of $\frac{1}{2}$ of $\frac{3}{4}$ of said lot as above stated.

That Amable Tramble and Adale Paran are together the owners of one undivided 24th part of said lot, and derive title to the same by being the only heirs-at-law of Bridget Tramble, who was a sister of said Laurant Pensoneau, deceased, and also entitled to one 9th part of $\frac{1}{2}$ of $\frac{3}{4}$ of said lot.

That John Hebert, junior, is the owner of 6 undivided 24th parts of said lot, or $\frac{1}{4}$th of the same; that he derives title to the same by being the only heir-at-law of Elizabeth Lapance, afterwards Elizabeth Hebert, who was one of the heirs of Antoine Lapance, deceased, the confirmee of said lot as above stated.

Petitioner further states that Adale Paran, formerly Adale Tramble, is now the wife of Gabriel Paran, who, as such husband, is interested in said premises.

That Amable Tramble, one of the heirs aforesaid, is a minor under the age of twenty-one, and that Narcisse Pensoneau is his guardian, duly appointed by the county court of St. Clair county.

That John Hebert, junior, is also a minor under the age of twenty-one years, being one of the owners as aforesaid, and that Hebert Hebert is his guardian, duly appointed by the county court of St. Clair county.

Petitioner further states that he knows of no other persons who are in any way interested in the same premises except those above stated, and that he is anxious to have the same divided and the share of each of said owners allotted and set apart to him, her or them respectively, if the same can be done consistently with the interests of said estate; and if not, that the same may be sold in the way and manner prescribed by the statute in such case made and provided.

He therefore prays that the said Joseph Trotier, Amable Tramble and Narcisse Pensoneau, his guardian, Adale Paran and Gabriel Paran, John Hebert, junior, and Hebert Hebert, his guardian,

may be made parties defendants to this proceeding, and that they, and each of *the*, be summoned as the law directs, and be required to make full and complete answer to all and singular the statements and allegations above contained.

And that, upon the final hearing of this cause, a decree be granted by the court making division and partition of said premises according to the rights and interests of said parties hereto, as above stated.

And that the said premises be sold, and the proceeds therefrom be divided amongst said parties according to their respective shares and rights, in case partition cannot be made without injury to the parties or prejudice to the estate.

And that your petitioner may have such other and further relief in the premises as to your honor may seem meet and proper, and as to equity and good conscience appertain; and petitioner will ever pray, &c.

ROBERT FORSYTH.

STATE OF ILLINOIS,
Peoria County, ss.

Robert Forsyth, the above named petitioner, being first duly sworn, doth depose and say that the matters and things stated and set forth in the foregoing petition by him subscribed are true, to the best of his knowledge, information and belief; and further saith not.

ROBERT FORSYTH.

Subscribed and sworn to before me, this 24th day of October, A. D. 1854.

JACOB GALE, *Clerk.*

Precipe.

In the Peoria Circuit Court, to November Term, A. D. 1854.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, Guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, Guardian of said John Hebert, junior. } Petition for Partition.

The clerk will issue summons in chancery in the above case, directed to the sheriff of St. Clair county, returnable, &c.

PURPLE, SANGER & PRATT,
Sol'rs for Petitioner.

Security for Costs.

In the Peoria Circuit Court, to November Term, A. D. 1854.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, Guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, Guardian of said John Hebert, junior. } In Chancery for Partition.

I do hereby enter myself security for costs in this cause, and acknowledge myself bound to pay or cause to be paid all costs which may accrue in this action, either to the opposite parties or to any of the officers of this court, in pursuance of the laws of this State. Dated this 23d day of October, A. D. 1854.

E. G. SANGER.

Exhibits.

"Exhibit H."

This indenture, made this twenty-ninth day of June, A. D. one thousand eight hundred and fifty-four, between Narcisse Pensoneau, Felicite his wife, and Edward Pensoneau and Margarette his wife, county of St. Clair, and State of Illinois, of the first part, and Robert Forsyth, of St. Louis county, and State of Missouri, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of two hundred and fifty dollars in hand paid to the said party of the first part, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell, to the said party of the second part, the following described tract or parcel of land lying and being situated in the county of Peoria, and State of Illinois, to wit:

A certain French lot, known as lot No. sixty-three, (63,) according to the map of the village of Peoria, county of Peoria, and State of Illinois, said lot patented to the legal representatives of Antoine Lepance, and being $\frac{2}{3}$ of $\frac{3}{4}$ of said lot. This deed is intended to convey the interest owned by purchase, and coming to us as legal heirs of Laurant Pensoneau, who purchased the same from the legal heirs of said Lepance, dec'd. For a more particular description of said lot, reference is made to said deeds, which are on record in said county of Peoria:

To have and to hold the said tract or parcel of land, with all and singular the privileges and appurtenances thereunto belonging, unto him, the said party of the second part, and to his heirs and assigns forever; and the said parties of the first part, with and to the said party of the second part, by these presents, cove-

nants and agrees, that the said interests are free from all incumbrances; that they are seized of an estate in fee simple in and to the same.

In testimony whereof, the said party of the first part have hereunto set their names and seals, the day and year first above written.

NARCISSE PENSONEAU, [L. S.]
FELICITE PENSONEAU, [L. S.]
EDWARD PENSONEAU, [L. S.]
MARGARETTE her ✕ mark. PENSONEAU. [L. S.]

STATE OF ILLINOIS,
County of St. Clair, sct.

I, John Scheel, clerk of the county court within and for the county of St. Clair and State of Illinois, hereby certify that Narcisse Pensoneau and Felicite his wife, and Edward Pensoneau and Margaret his wife, whose names are signed to the foregoing instrument of writing as having executed the same, are personally known to me to be the real persons who executed the same, and that they appeared before me and severally acknowledged the said instrument to be their free act and deed for the purposes therein mentioned. And I further certify, that the said Felicite Pensoneau and Margaret*h* Pensoneau were by me made acquainted with the contents of said instrument, and examined separate and apart from their said husbands, whether they had executed the same and relinquished their right of dower in and to the lands and tenements therein mentioned and described, voluntarily, freely, and without compulsion of their said husbands; and that they thereupon declared that they executed the said instrument and relinquished their dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of their said husbands.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court, at office, in Bellville, this 29th day of June, 1854. [L. S.]

JOHN SCHEEL,
By D. P. SEITZ, *Deputy*.

"Exhibit G."

This indenture, made and entered into this eleventh day of March, at the city of New Orleans, and State of Louisiana, in the year of our Lord eighteen hundred and fifty, by and between Mary Louisa Byrnes, late Mary Louisa Valentine, (one of the heirs of the late Lamont Pensoneau, of the county of Saint Clair, and State of Illinois,) of the city of New Orleans, and State of Louis-

iana, party of the first part, and Narcisse Pensoneau, of the county of Saint Clair, and State of Illinois, party of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of two hundred dollars current money of the United States, to her in hand paid, the receipt whereof is hereby acknowledged and confessed, has granted, bargained, sold, aliened, conveyed, assigned, and set over to the said party of the second part "all the property rights in action and interests hereinafter named and specified—that is to say, all my right, title, and interest in and to a certain tract or parcel of land lying and being situated in what is known as the American Bottom, in the county of St. Clair, and State of Illinois, known and designated as claim eighteen hundred and thirty-two, survey number five hundred and seventy-one, constituting a farm, and being the same on which the late Lamont Pensoneau died; for a further description of which property, reference is here made to records of said county. Also, certain lots or parcels of ground lying and being situated in the town of Peoria, and State aforesaid, said lots of ground being the same as purchased by the late Lament Pensoneau, deceased, in his lifetime, of the heirs of the late Antoine Lapence, deceased, as by a reference to the records of the county in which the said town is situated will more fully appear. Also, certain lots or parcels of ground lying and being situated in the city of St. Louis, county of St. Louis, and State of Missouri, situated at the northeast corner of Poplar and Fourth streets, of said city, and being the same lots or parcels of ground purchased by the late Lament Pensoneau, deceased, of Edward Cayer and wife, and Jane McKinney, heirs of the late John Hays, deceased, of the city and State aforesaid; for a further description of which said lots, reference is here made to the records of St. Louis county. Also, all my right, title, and interest in and to any and every right in action suit, whether in law or equity, now pending in the courts either of the State of Illinois or Missouri, in which the said party of the first part is in anywise interested or a paty to, together with all interest or claim I now have or may hereafter acquire upon the estate of the late *Lamiart* Pensoneau, deceased, as one of the heirs-at-law to said estate: to have and to hold the said property right in action and interest in the estate of the late *Lomiant* Pensoneau, deceased, as aforesaid, together with all the rights, privileges, and immunities to the same in anywise belonging or appertaining to the said party of the second part, his heirs, executors, administrators, and assigns forever; and the said party of the first part doth covenant for herself, her heirs, executors, administrators, and assigns, to warrant and defend the title to the said party of the second part, by virtue of these presents, against any and every lawful claim or claims whatsoever.

In testimony whereof, the said party of the first part has here-

unto set her hand and seal at the city of New Orleans, and State of Louisiana, aforesaid, the day and year first above written.

her
MARY LOUISE BYRNE.
mark.

Signed, sealed and delivered in the presence of—
WILLIAM SHANNON,
J. W. BREDLOVE.

STATE OF LOUISIANA,
Parish and city of New Orleans.

On this twelfth day of March, eighteen hundred and fifty, before me, Albert Child Ainsworth, commissioner of deeds for the States of Missouri and Illinois, duly appointed by the respective governors thereof, and qualified under oath of office to act in the State of Louisiana, personally appeared Mary Louise Byrne, the grantor aforenamed, and acknowledged the said deed, or instrument of writing, to be her act and deed for the uses, purposes, and considerations therein named, the said Mary Louise Byrne being to me satisfactorily proved to be the individual described in, and who executed the foregoing deed by Philip Carjoint, of New Orleans, a competent and creditable witness for that purpose, by me duly sworn.

[L. S.] In faith whereof, I grant my signature and official seal.
A. C. AINSWORTH,
Comm'r.

"Exhibit F."

This indenture, made and entered into this 23d day of June, A. D. 1851, between Louis P. Pensoneau and Sarah S. Pensoneau, his wife, heirs-at-law of Laurent Pensoneau, deceased, late of the county of St. Clair, State of Illinois, and Narcisse Pensoneau, witnesseth: That the said Louis P. Pensoneau and Sarah S., his wife, parties of the first part, have, for and in consideration of the sum of four hundred dollars to them in hand paid, the receipt whereof is hereby acknowledged from the said Narcisse Pensoneau, party of the second part, and the said parties of the first part grant, bargain, and sell, and by these presents give, grant, bargain, sell, and forever convey unto the said party of the second part, his heirs and assigns, forever, all the interest that they, the said parties of the first part, have in and to the estate of said Laurant Pensoneau, deceased, as one of his heirs, in the following described lands, to wit:

65 acres taken off the southwest side of claim No. 1832, in survey No. 571, situated in T. 2 N., R. 9 W., being the homestead of said deceased, and pt. E. ½ N. E. fr'l ¼ of sect. No. 20, and part W. ½ N. E. fr'l ¼ sect. 20, and part N. ½ of S. W. ¼ sect. No. 20,

and the N. E. fr'l S. E. ¼ of sect. No. 20, and the E. ½ S. W. ¼ of sect. No. 21, all in township No. 2 N., R. 9 W., containing some one hundred and sixty-four acres, more or less, and two hundred and fourteen acres of the south ½ of section No. 3, township No. 1 N., R. 9 W., all west of the 3d principal meridian, in St. Clair county, State of Illinois. And also all my interest in the following lots of land in the subdivision of the Cahokia commons, in the said county and State aforesaid, situated in T. 2 N., R. 9 W., which are known and designated on the recorded plat of said subdivision as lots Nos. 16, 17, 18, 19, and 44; and also my interest, as heirs as aforesaid, in and to a certain lot in town of Peoria, county Peoria, State aforesaid, of which the said Laurent Pensoneau died seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapancin, dec'd;) and also all interest that we now have, or may hereafter have, arising out of any lawsuits now pending, or hereafter to be pending, relative to the estate of said dec'd in the county and State that might be assigned to us as one of his heirs-at-law, unto him, the said Narcisse Pensoneau, his heirs and assigns; and we, the said parties of the first part, covenant and agree with the said party of the second part, that we are fully entitled to the ints. of our share of said estate, herein sold unto him, the said Narcisse Pensoneau, herein conveyed said interest from all person or persons whatsoever claiming the same in, through, or under us, unto said Narcisse Pensoneau.

In testimony whereof, we, the said parties of the first part, have hereunto signed our names and affixed our seals the day and year above written.

LOUIS P. PENSONEAU, [SEAL.]
SARAH S. PENSONEAU. [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, ss.

I, John Scheel, clerk of the county court within and for the county of St. Clair and State of Illinois, hereby certify that Louis P. Pensoneau and Sarah S. Pensoneau, whose names are signed to the foregoing instrument of writing, as having executed the same, are personally known to me to be the real persons who executed the same, and that they appeared before me, and severally acknowledged the said instrument to be their free act and deed for the purposes therein mentioned.

And I further certify that the said Sarah S. Pensoneau, wife of Louis P., was by me first made acquainted with the contents of said instrument, and examined separate and apart from her said husband, whether she had executed the same, and relinquished her right of dower in and to the lands and tenements therein mentioned and described, voluntarily, freely, and without compulsion of her said husband, and that she thereupon declared that she exe-

cuted the said instrument, and relinquished her dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court at office, this 27th day of June, [L. S.] A. D. one thousand eight hundred and fifty-*are*.

JOHN SCHEEL,
Clerk of C. C. Pe.

STATE OF ILLINOIS,
County of St. Clair, ss.

I, William S. Thomas, clerk of the circuit court, and ex-officio recorder of deeds and other conveyances, for the said county of St. Clair, and State of Illinois, hereby certify that the foregoing is a true and correct copy of the original on record in my office, in book "A," No. 2, page 112.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court at office, this 4th day of [L. S.] April, A. D. 1854.

WM. S. THOMAS, *Cl'k.*
By FRED. W. KARSCH, *Dep'ty.*

"Exhibit E."

This indenture made and entered into this 16 day of June, A. D. 1851, between Francis Pensoneau, one of the heirs-at-law of Laurant Pensoneau, dec'd, late of the county of St. Clair, and State of Illinois, and Narcisse Pensonean, of the city of Bellville, county and State aforesaid, witnesseth: That the said Francis Pensoneau, party of the first part, has, for and in consideration of the sum of two hundred and thirteen dollars, to him in hand paid, the receipt whereof is hereby acknowledged, *has* granted, bargained and sold, and by these presents grant, bargain, sell, and forever convey and confirm unto the said Narcisse Pensoneau, party of the second part, his heirs and assigns forever, all of the interest that he the said party of the first part has, in and to the estate of said Laurant Pensoneau, deceased, as one of his heirs, in the following described land, to wit: 65 acres taken off the southwest side of claim No. 1832, survey No. 571, situated in T. 2 N., R. 9 W., being the homestead of the said deceased, and pt. E. $\frac{1}{2}$ N. E. fr'l $\frac{1}{4}$ sect'n No. 20, and fr'l W. $\frac{1}{2}$ N. E. fr'l of sect. No. 20; and fr'l N. $\frac{1}{2}$ S. W. $\frac{1}{4}$ of sect. No. 20; and the N. E. fr'l S. E. $\frac{1}{4}$ of sect. No. 20, and the E. $\frac{1}{2}$ S. W. $\frac{1}{4}$ sect. No. 21, all in T. 2 N., R. 9 W., containing one hundred and sixty-four acres more or less, and two hundred and fourteen acres of the S. $\frac{1}{2}$ of sect. No. 3, T. 9 N., R. 9 W., of the third principal meridian in St. Clair county. And also my interest in the following lots of the subdivision of the Cahokia commons in said county, in T. 2 N., R. 9 W , which are

known on the recorded plat of said subdivision as lots No. 44, 16, 17, 18 and 19. And also all my interest in and to a certain lot in the town of Peoria, county of Peoria, of which the said Laurent Pensoneau *and* seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapence, deceased;) and also all interest that I now have or may hereafter have, in and to said estate, as one of the heirs as aforesaid of Laurent Pensoneau, dec'd, in and to any of the within described land, lots, or assets arising therefrom, that might be assigned to me as one of the aforesaid heirs: to have and to hold all of the aforesaid int's herein intended to be conveyed unto him, the said Narcisse Pensoneau, his heirs and assigns forever, conveying him all the interest that I have or may have in any of the within estate, and also the fee-estate that may be in me as heir as aforesaid.

In testimony whereof, I have hereunto set my name and affix my seal the day and year first above written.

FRANCIS PENSONEAU. [SEAL.]

Signed in presence of—
JOHN STEVENS.

STATE OF ILLINOIS,
County of St. Clair, sct.

I, John Scheel, clerk of the county court of St. Clair county, do certify that Francis Pensoneau, whose signature appears to the foregoing deed, and who is personally known to me to be the person described in and who executed the same, did acknowledge the same to be his free and voluntary act and deed, for the uses and purposes therein mentioned.

[L. S.] Given under my hand and seal, at office of county court in Bellville, this 17 day of June, 1851.

JOHN SCHEEL,
Cl'k Co. Court St. Clair Co., Illinois.

"Exhibit D."

This deed, made and entered into this the twenty-third day of August, A. D. 1852, by and between Paschal Pensoneau of the first part, and Edward Pensoneau of the second part, all of the State of Missouri, witnesseth: That the said Paschal Pensoneau, for and in consideration of the sum of eight hundred dollars, the receipt of which is hereby acknowledged, hath bargained and sold, and by these presents doth bargain, sell, alien, convey, and confirm unto the party of the second part, and his heirs and assigns forever, all the interest which the said Paschal Pensoneau has or may be hereafter *be* entitled to in the estate of their late brother *Lorant* Pensoneau, consisting of a lot and parts of a lot of ground situated in the city of St. Louis, situated on the corner of Fourth and Poplar streets, in the city of St. Louis; and also the interest

of the said party of the first part may have as one of the heirs-at-law of said *Lorent* Pensoneau, in the State of Illinois, in the lands belonging to the heirs of the said *Lorent* Pensoneau, situated in St. Clair county, and also other counties in the said State.

It being the design of the said party of the first part to convey by this deed to the party of the second part, all the interest he may have or take from the estate of said *Lorent* Pensoneau as one of the heirs-at-law of the said deceased, of all kinds and descriptions, whether real or personal, the particular real estate is not specified, as the numbers and descriptions are not now in the possession of the parties, but is to be as binding as if they were fully described and specified: to have and to hold the said property herein conveyed to the said Edward Pensoneau and his heirs and assigns forever.

In testimony whereof, the said Paschal Pensoneau has hereunto set his hand and seal this 23d day of August, 1832.

PASCHAL PENSONEAU. [SEAL.]

Attest: JOHN DONIPHEAR.
SOL. P. MCKARNY.

STATE OF MISSOURI,
County of Platte, ss.

On this 23d day of August, A. D. 1852, personally appeared before the undersigned, judge of the Weston court of common pleas, a court of record in the State of Missouri, Paschal Pensoneau, who is personally known to me to be the person who executed the foregoing instrument, and the identical person therein mentioned, and signed the same in my presence, and acknowledged he executed the same for the uses and purposes therein contained, and desired the same might be recorded.

SOL. P. McCURDY,
Judge Weston Court of Common Pleas.

"Exhibit C."

This deed, made and entered into this *day of* 28th day of June, eighteen hundred and fifty-four, between Charles Pensoneau, of the county of St. Clair and State of Illinois, of the first part, and Robert Forsyth, of the county of St. Louis and State of Missouri, of the second part, witnesseth: that *that* the said party of the first part, for and in consideration of the sum of fifty dollars, the receipt of which is hereby acknowledged, has granted, bargained, and sold, and by these presents do grant, bargain and sell, convey and confirm unto the said party of the second part, his heirs and assigns forever, my interest in a certain lot, tract, or parcel of land, lying and being in the county of Peoria and State of Illinois, and described as follows:

Lot number (63), patented to the legal representatives of An-

toine Lapance, dec'd, late of Peoria county, *of Peoria*, State aforesaid, for further description of which, reference is made to deed of Bazil La *caumpt* and wife and Madaline Lapance, now Madaline Glodon, heirs of said Antoine Lapance, to *Laurrant* Pensoneau, now dec'd. This deed is intended to convey unto the said party of the second part one ninth of one-half of the said interest above described, which he inherited as one of the heirs of said dec'd, (L. Pensoneau:) to have and to hold the above-described premises, together with all the privileges and appurtenances thereunto belonging, unto the said party of the second part and to their heirs and assigns forever; the said party of the first part hereby covenanting that the said interest in said lot is free from all incumbrances, and that he will warrant and forever defend said interest in said lot unto the said party of the second part, his heirs and assigns, against the claim or claims of all persons whomsoever lawfully claiming the same.

In testimony whereof, the said party of the first part has *unto* set his name and seal this day and year above written.

CHARLES PENSONEAU. [L. S.]

STATE OF ILLINOIS,
County of St. Clair, sct.

I, Narcisse Pensoneau, a notary public within and for the said county of St. Clair and State of Illinois, hereby certify that Charles Pensoneau, whose names *are* signed to the foregoing instrument of writing as having executed the same, *are* personally known to me to be the real person who executed the same, and that he appeared before me and severally acknowledged the said instrument to be his act and deed, for the purposes therein mentioned.

In testimony whereof, I have signed my name and affixed my notarial seal, this 28th day of June, A. D. one thousand eight hundred and fifty-four.

NARCISSE PENSONEAU, [SEAL.]
Notary Public.

"Exhibit B."

This deed, made and entered into this seventeenth day of April, in the year eighteen hundred and fifty-four, by and between Elizabeth Pensoneau, of the county of St. Clair, in the State of Illinois, of the first part, and Robert Forsyth, of St. Louis, State of Missouri, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of two hundred and seventy-five dollars, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does hereby grant, bargain, and convey unto the said party of the second part all her right, title, and interest, of, in, and to the following described lot, piece, or parcel of land, situated in the town

of Peoria, in the said State of Illinois, containing about eighty feet French measure, more or less, in front, by three hundred feet French measure, more or less, in depth, bounded northwardly by lot now or formerly belonging to Robsin or Birnet, southwardly by lot now or formerly of John B. Blondeau, eastwardly by a street separating it from the Illinois river, and westwardly by a street running parallel to the Illinois river, being lot numbered sixty-three (63) in Edward Cole's report to the Secretary of the Treasury of the United States, dated 10th November, 1820, and which lot was confirmed to Antoine Lapance by act of Congress approved March 3, 1823, and being the same conveyed to the legal representatives of the said Antoine Lapance by the United States, by patent dated 1st day of February, A. D. 1847, and recorded in volume 10, pages 122 and 123: to have and to hold the same, together with all and singular the rights, privileges, and appurtenances thereunto belonging, unto him the said party of the second part, his heirs and assigns forever.

In witness whereof, the said party of the first part has hereunto set her hand and seal the day and year above written.

her
ELIZABETH ⋈ PENSONEAU. [SEAL.]
mark.

Signed, sealed, and delivered in presence of—
DU BONFFAY FREMAN.

STATE OF MISSOURI,
County of St. Louis, ss.

Be it remembered, that on this seventeenth day of April, 1854, before the undersigned, clerk of the St. Louis county court, came Elizabeth Pensoneau, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument of writing as a party thereto, and she acknowledged the same to be her act and deed for the purposes therein mentioned.

And I further certify, that the foregoing deed is executed and acknowledged in due form of law according to the statutes of the State of Missouri.

In witness whereof, I hereto set my hand and affix the [L. S.] seal of said court at office in St. Louis, the date last aforesaid.

JOSIAH THORNBURGH,
Clerk.

"*Exhibit A.*"

This indenture, drawn and entered into this third day of January, in the year of our Lord one thousand eight hundred and forty-six, between Magdaline Glodon, wife of Nicholas Glodon, and

Nicholas Glodon, Bazil Lecomb, and Monilque, his wife, all of the county of St. Clair, State of Illinois, of the first part, and Laurant Pensoneau, of the same county and State, of the second part, witnesseth: That for and in consideration of the sum of one hundred and twenty dollars, the receipt whereof is hereby acknowledged, the said party of the first part have granted, bargained, and sold, and by these presents do grant, bargain, sell, quit-claim, transfer, and convey unto the said Laurant Pensoneau, his heirs and assigns, forever, all their right, title, and interest in and to certain lots or pieces of ground in and adjoining the village of Peoria, in Peoria county, State of Illinois, to wit: one lot described in patent certificate of the receiver and register of the land office at Edwardsville, No. 24, for claim for No. 64, which is an out-lot or field containing above nine arpents of land, situated near the village of Peória, bounded on the north by an out-lot or field of Felix Fontaine, and on the south by a field of Perre La Vasseur dit Chamberlin, being sitated on the southwest fractional quarter of section No. nine (9), township No. (8) north, range No. eight (8) east of the fourth principal meridian, according to the survey approved the 1st September, 1840, by the surveyor of the public land for the States of Illinois and Missouri.

Also, one other tract contained in the aforesaid register and receiver patent certificate No. 13, which is for claim No. 63, (sixty-three,) which is a village lot confirmed, as well as the former tract, to Antoine Lasseur, being eighty feet in front, more or less, by about three hundred feet in depth, French measure, and bounded northwardly by a lot occupied by Louis Pinnete; eastwardly, by a street separating it from the Illinois river; southwardly, by unoccupied land; and westwardly by a street; the same being situated in the southwest fractional quarter of section nine (9), in township No. 8 north, range No. eight (8) east of the fourth principal meridian, in the said village of Peoria, according to the same survey above referred to: to have and to hold the same to his own proper use and behoof of the said Laurant Pensoneau, his heirs and assigns, forever.

The said party of the first part aver, that when Antoine Lassure died, he left the said Magdaline Glodon (then Magdeline Lassure) his widow, and only five children, to wit: Monique, (now wife of Bazil Lecompt,) Elizabeth, (afterwards wife of John Hebert,) Basiel, Angeline, and Maria.

That Elizabeth and John Hebert, her husband, Basil, Angelique, and Maria, are now all dead; Basil, Angelique, and Maria, died without issue; that Bazil and Angelique died since 1840; that Maria died about A. D. 1825; that Elizabeth and husband died in A. D. 1844, leaving one only child, John Hebert by name, aged about five years. The said party of the first part further covenants, that they have never before sold their interest in said

lands, and that they own the entire of said lands, except the interest of said John Herbert, minor.

In testimony whereof, the said party of the first part have hereunto set their hands and seals the day and year first above written.

NICHOLAS his ⋈ mark. GLODON, [SEAL.]

MAGDALINE her ⋈ mark. GLODON, [SEAL.]

BAZIL *her* ⋈ mark. LECOMPT, [SEAL.]

MONIQUE *his* ⋈ mark. LACOMPT. [SEAL.]

Signed, sealed, and delivered in presence of—
VITAL JAROT.

STATE OF ILLINOIS,
St. Clair County.

I, Vital Jarrot, a justice of the peace in and for said county, do certify that Nicholas Glodon and Magdeline Glodon, his wife, Bazil La Compt, and Monique La Compt, his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in and who executed the same, did each acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned. And the said Magdeline Glodon and Monique La Compt having each, by me, been made acquainted with the contents of said deed, and examined separate and apart from their said husbands, acknowledged that they had executed the same, and each relinquished and conveyed their rights to the premises therein mentioned, voluntarily, freely, and without compulsion of their respective husbands.

Given under my hand and seal this third day of January, in the year of our Lord one thousand eight hundred and forty-six.

VITAL JARROT, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, ss.

I, William McClintock, clerk of the county commissioners' court of the aforesaid county of St. Clair, do hereby certify that Vital Jarrot, whose name is subscribed to the foregoing instrument of writing, was at the time of signing the same (namely, the third day of January, A. D. 1846,) an acting justice of the peace, within and for the said county of St. Clair, regularly commissioned and

qualified, and as such full faith and credit are due and of right ought to be given to all his official acts.

In witness whereof, I have hereunto set my hand and seal of said court, at office in Bellville, the 6th day of February, A. D. 1846.

[SEAL.]

WM. McCLINTOCK,
Clk C. C. C. St. C. C.

Summons.

And thereupon, on the same 24th day of October, A. D. 1854, the clerk of said court issued a summons under the seal of said court to the sheriff of St. Clair county, which, with the returns thereon endorsed, are as follows, to wit:

The people of the State of Illinois to the Sheriff of St. Clair county, greeting:

We command you that you summon Joseph Trotier, Amable Tramble, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, jr., and Hebert Hebert, guardian of John Hebert, jr., if they may be found in your county, to appear before our circuit court on the first day of the next term thereof, to be held at Peoria within and for the said county of Peoria, on the third Monday of November next, then and there in our said court to answer the matters and things contained in a certain petition for partition exhibited against them in our said court, on the chancery side thereof, by Robert Forsyth, petitioner, and make return of this writ, with an endorsement of the time and manner of serving the same, on or before the first day of the term of the said court to be held as aforesaid.

Witness Jacob Gale, clerk of our said court, and the seal thereof, at Peoria, this 24th day of October, in the year of our Lord one thousand eight hundred and fifty-four.

[L. S.]

JACOB GALE, *Clerk.*

Returns endorsed:

Executed November 9th, 1854, by reading and delivering an attested copy of the within writ to each of the within named defendants, except Joseph Trotier, who was not found, but left a copy of the within at his usual residence, with a white person over the age of ten years, and informing her of its contents.

THOS. CHALLENOR,
Sheriff St. C. C.

I acknowledge the service of the within this 2d day Nov., 1854.

NARCISSE PENSONEAU,
Guardian of Amable Tramble.

Proceedings in chancery before the circuit court, at a term thereof begun and held at the court-house in the city of Peoria, in

and for the county of Peoria, in the State of Illinois, on the third Monday in November, in the year of our Lord one thousand eight hundred and fifty-four, it being the twentieth day of said month; the Honorable Onslow Peters, judge of the sixteenth judicial circuit in said State, presiding, to wit:

ROBERT FORSYTH vs. JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior.	For Partition, &c.

And now on this day this cause coming on to be heard, and it appearing to the court now here that the said defendants, and each of them, had been duly served with summons in this cause for more than ten days previous to the commencement of this suit, and that they and each of them have failed to plead, answer, or demur to said petition, but after having been three times solemnly called come not, but each and all of them make default, whereupon it is ordered by the court that said petition be taken for confessed as to each and all of said defendants.

It is also ordered by the court that this cause be referred to George S. Blakely, master in chancery of this court, to take proofs of the truth of the allegations contained in the petition in this case, and that he report to this court immediately thereon.

Master's Report.

And afterwards, on the 27th day of November, A. D. 1854, the report of the said master in chancery was filed in the words and figures following, to wit:

Circuit Court, Peoria county, November term, 1854.—In Chancery for Partition.

STATE OF ILLINOIS,
Peoria County, ss.

The report of George S. Blakely, master in chancery of said court, to whom the cause of Robert Forsyth vs. Trotier & als. was referred to take and report proofs, respectfully shows that he finds as follows: that said Robert Forsyth is the owner of two-thirds or sixteen twenty-fourths part of the land mentioned in the petition as filed herein, by conveyances from the heirs of Antoine Lapance and the heirs of his grantees.

That John Hebert is owner and entitled one-fourth or six twenty-fourths of the same land, which he derives as heir-at-law

of Elizabeth Lapance, afterwards Elizabeth Hebert, and daughter of said Antoine Lapance.

That Adale Paran and Amable Tramble are jointly owners of one twenty-fourth part of said land, which they derive title as heirs-at-law of Bridget Tramble, who was sister of Laurent Pensoneau, who died seized of three-fourths of said land which he derives from heirs of said Antoine Lapance.

That Joseph Trotier is owner of one twenty-fourth part of said land, which he derives title as heir-at-law of Mary Trotier, who was sister and heir-at-law of Laurents Pensoneau, making said title as follows:

Robert Forsyth	$\frac{16}{24}$	part.
John Hebert	$\frac{6}{24}$	"
Adale Paran and Amable Tramble	$\frac{1}{24}$	"
Joseph Trotier	$\frac{1}{24}$	"

As is stated in the complainant's petition, all of which is respectfully submitted.

G. L. BLAKELY,
Master, &c.

Nov. 25, '54.

And thereupon, on the same 27th day of November, A. D. 1854, at the same term of the said court the following decree was made in said cause, to wit:

Decree of Partition, &c.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } For Partition, &c.

And now on this day this cause coming on to be heard, and it appearing to the court now here that the above named defendants have each of them been duly served with summons for more than ten days previous to the commencement of this term of court, and the said defendants and each of them having failed to plead, answer or demur to said petition, and upon being three times solemnly called come not, but make default; whereupon it is ordered by the court that said petition, as to each and all of said defendants, be taken for confessed. And it also appearing to the court now here, from the report of George S. Blakeley, master in chancery of this court, to whom this cause was by a former order of this court referred, for the purpose of taking proofs of the truth of the allegations in the petition in this case filed, and reporting them to the

court, that Robert Forsyth, the petitioner in this case, is the owner in fee simple of sixteen undivided twenty-fourth parts of said lot, or claim No. sixty-three, described in said petition; that the defendant, John Hebert, is the owner of six undivided twenty-fourth parts of said premises described in said petition; that the defendant, Joseph Trotier, is the owner of one undivided twenty-fourth part of said premises; and that said defendants, Amable Tramble and Adale Paran, are jointly the owners of the other undivided twenty-fourth part of said premises:

And the court being fully advised in the premises, doth adjudge and declare, and this court by virtue of the authority therein vested, pursuant to statute in such case made and provided, doth adjudge and decree that the rights, interests, and estates of the several parties to this suit in and to the premises and real estate aforesaid, are as follows, to wit:

That the petitioner, Robert Forsyth, is the owner in fee simple of sixteen undivided twenty-fourth parts of said premises; that the defendant, John Hebert, is the owner in fee simple of six undivided twenty-fourth parts of said premises; that the defendant, Joseph Trotier, is the owner in fee simple of one undivided twenty-fourth part of said premises; and that the defendants, Adale Paran and Amable Tramble, are jointly the owners in fee simple of the other undivided one twenty-fourth part of said premises, and that the same is owned by them as tenants in common.

And it is further ordered, adjudged, and decreed by the court that partition be made of the said real estate hereinbefore described among the said parties, according to their respective rights and interests therein, as the same have been thus ascertained and adjudged by this decree by this court.

And further, Benjamin L. T. Bourland, William C. Boilvin, Washington Cockle, citizens of Peoria county, not connected with any of the parties to this suit, either by consanguinity or affinity, and entirely disinterested, be and the same are hereby appointed commissioners, for the purpose of making such partition, provided the same can be done consistent with the interests of the estate; that the said commissioners, before proceeding to the execution of their duties, shall each take an oath before some justice of the peace, or the court, fairly and impartially, to make partition of said premises, if the same can be done consistently with the interests of said estate, as directed by this decree; and that said commissioners shall go upon the premises aforesaid, and shall divide the same into twenty-four equal parts, according to quantity and quality, and shall thereupon allot by metes and bounds to the said petitioner, Robert Forsyth, sixteen of said parts; and to the said defendant, John Hebert, six of said parts; and to the said defendant, Joseph Trotier, one of said parts; and to said defendants, Adale Paran and Amable Tramble, jointly, the other one of said

parts, to be held and enjoyed by each of them in fee simple in severalty, and shall designate the parts or portions so allotted to each; and further, that said commissioners shall make report of their proceedings herein, under their hands and seals, to this court at its present term, specifying therein the manner of executing this decree.

Commissioners' Oaths.

And afterwards, on the thirteenth day of December, A. D. 1854, there was filed in said cause the oaths of said commissioners, signed and duly certified, and their report, in the words and figures following, to wit:

In the Peoria Circuit Court.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } For Partition, &c.

We, the undersigned, commissioners appointed to make partition of the premises described in the petition in this case, do each of us solemnly swear that we will fairly and impartially make partition of said premises, if the same can be done consistently with the interests of said estate between the parties, and in the way and manner directed by the decree in this case; and further say not.

W. C. BOILVIN,
BEN. L. T. BOURLAND,
WASHINGTON COCKLE.

Subscribed and sworn to before me, this 6 day of December, A. D. 1854.

M. R. OWEN, *J. P.*

Report of Commissioners.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } For Partition, &c.

The undersigned commissioners, appointed by the circuit court

of Peoria county to make partition of the land and premises described in the decree made in this case, to wit, claim No. sixty-three, in the village of Peoria, do certify and report to the said court that, after being duly sworn according to law, they did, on the fifth day of December, A. D. 1854, go upon the premises in the said decree mentioned and described, and examined the same for the purpose of making partition thereof, and after such examination we are of opinion, and so report to the court, that the said premises cannot be divided between the several parties in interest in and to the same, without manifest prejudice to the proprietors of the said estate, nor consistent with the interests of the said estate.

All which is respectfully submitted.

In testimony whereof, we have hereunto set our hand and seals, this 6th day of December, A. D. 1854.

W. C. BOILVIN, [SEAL.]
BEN. L. T. BOURLAND, [SEAL.]
WASHINGTON COCKLE. [SEAL.]

Decree of Sale.

And afterwards, on the thirteenth day of December, A. D. 1854, at the term of said court aforesaid, the following proceedings were had, and decree made by said court, to wit:

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } For Partition, &c.

And now on this day this cause again coming on to be heard, and it appearing to the court by the report of the commissioners filed in this cause, that the real estate described in the complainants or petitioner's petition in this case, cannot be divided between the several parties in interest in and to the same without manifest prejudice to the proprietors thereof, nor consistent with the interest of the estate:

It is therefore ordered, adjudged, and decreed, that the said real estate, to wit, French claim No. sixty-three, in the village of Peoria, being the same lot confirmed to Antoine Lapance, by act of Congress approved March 3d, 1823, and afterwards patented to the legal representatives of said Antoine Lapance, be sold by George S. Blakeley, master in chancery, of Peoria county, who is hereby appointed commissioner for that purpose; that said sale be made by said commissioner on Saturday, the twentieth day of Jan-

uary, A. D. 1855, at the front door of the court-house, in the city of Peoria, between the hours of ten o'clock a. m. and four o'clock p. m. of said day, he, the said commissioner, first giving three weeks' notice of the time, place, and terms of said sale, by three successive weekly advertisements thereof in some newspaper printed and published in Peoria county, and that said commissioner sell said premises for cash.

It is further ordered, adjudged, and decreed, that, after making such sale as aforesaid, the said commissioner make, execute, and deliver to the purchaser or purchasers at said said sale a deed or deeds of the premises so sold, according to law, conveying all the interest of the parties to this suit in and to said premises, and that he make report of his proceedings herein to the next term of this court, after making said sale as aforesaid.

Report of Sale.

And afterwards, on the ninth day of February, A. D. 1855, a report of the said master in chancery was filed in said cause, in the words and figures following, to wit:

Circuit Court, Peoria County, Special Feb'y Term, 1855.

ROBERT FORSYTH
vs. } In Chancery.
JOSEPH TROTIER and others.

This day the master in chancery of this court and reports to the court that, in pursuance to a decree of this court rendered at the November term, A. D. 1854, he did, on the twenty-eighth day of December, A. D. 1854, advertise the premises in said decree described in the Peoria Republican, a newspaper published in Peoria, and on the twentieth day of January, A. D. 1855, at the hour of 12 o'clock m. of said day, I offered said premises for sale at the front door of the court-house, to the highest and best bidder for cash; and Robert Forsyth then and there bid for the said premises the sum of one hundred dollars, that being the highest and best bid for the same. I then and there struck off and sold said premises to him at that price, and made, executed, and delivered to said Robert Forsyth a deed of said premises; that, after paying the costs in said suit, there is remaining in my hands sixty-two dollars and ninety cents, subject to the order of this court.

G. S. BLAKELEY,
Master, &c.

Proceedings in chancery before the circuit court, at a special term thereof, begun and held at the court-house, in the city of Peoria, in and for the county of Peoria, in the State of Illinois, on the first Monday in February, in the year of our Lord one thousand eight hundred and fifty-five, it being the fifth day of

said month; the Honorable Onslow Peters, judge of the sixteenth judicial circuit in said State, presiding, to wit:

Friday, February 9th, A. D. 1855.

ROBERT FORSYTH
vs.
JOSEPH TROTIER, AMABLE TRAMBLE, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior. } For Partition, &c.

And now on this day this cause again coming on to be heard, and it appearing to the court that the commissioner, George S. Blakeley, appointed by this court to make sale of the premises mentioned in the decree in this case, has filed his report herein, whereby it appears that said commissioner had made sale of said premises as directed in said decree, and that the *complaint*, Robert Forsyth, became the purchaser of the same, it is hereby ordered, adjudged, and decreed, that said report be in all things confirmed by the court, and that the deed executed to said Robert Forsyth by said George S. Blakeley, commissioner, &c., operate to convey all the right, title, and interest of the parties to this proceeding in and to the premises so sold to said Robert Forsyth, his heirs and assigns.

STATE OF ILLINOIS,
Peoria County, ss.

I, Jacob Gale, clerk of the circuit court in and for the county of Peoria, in the State of Illinois, do hereby certify that the foregoing is a full, correct, and complete transcript from the record of all the proceedings and all the papers on file in a certain cause in chancery, in the circuit court aforesaid, of Robert Forsyth, complainant, against Joseph Trotier, Amable Tramble, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior, defendants, for partition, &c., as the same are of record and on file in my office.

In witness whereof, I hereto set my hand and affix the seal of said court, at my office, in the city of Peoria, this first [L. S.] day of January, in the year of our Lord one thousand eight hundred and fifty-six.

JACOB GALE, *Clerk.*

Whereas the circuit court of Peoria county, in and for the State of Illinois, sitting as a court of chancery, at the November term, A. D. one thousand eight hundred and fifty-four, in the cause

wherein Robert Forsyth is petitioner, and Joseph Trotier, Amable Tramble, Narcisse Pensoneau, guardian of Amable Tramble, Adale Paran, Gabriel Paran, John Hebert, junior, and Hebert Hebert, guardian of said John Hebert, junior, are defendants, made the following decree, to wit:

And now on this day this cause again coming on to be heard, and it appearing to the court by the report of the commissioner filed in this cause, that the real estate described in the complainant's or petitioner's petition in this case cannot be divided between the several parties in interest in and to the same, without manifest prejudice to the proprietors thereof, nor consistent with the interest of the estate:

It is therefore ordered, adjudged and decreed that the said real estate, to wit, French claim No. sixty-three, (63,) in the village of Peoria, being the same lot confirmed to Antoine Lapance by act of Congress, approved March 3, 1823, and afterwards patented to the legal representatives of said Antoine Lapance, be sold by George S. Blakeley, master in chancery of Peoria county, who is hereby appointed commissioner for that purpose; that said sale be made by said commissioner on Saturday, the twentieth day of January, A. D. 1855, at the front door of the court-house in the city of Peoria, between the hours of ten o'clock a. m. and four o'clock p. m. of said day; he, the said commissioner, first giving three weeks' notice of the time, place and terms of said sale, by three successive weekly advertisements thereof in some newspaper printed and published in Peoria county, and that said commissioner sell said premises for cash.

It is further ordered, adjudged and decreed that, after making such sale as aforesaid, the said commissioner make, execute and deliver to the purchaser or purchasers at said sale a deed or deeds of the premises so sold according to law, conveying all the interest of the parties to this suit in and to said premises, and that he make report of his proceedings herein to the next term of this court, after making said sale as aforesaid.

And whereas I, George S. Blakesley, master in chancery and commissioner, as aforesaid, did advertise said land for sale, as is by said decree required, in the Peoria Weekly Republican, a newspaper printed and published weekly in said county of Peoria; and, on the twentieth day of January, A. D. one thousand eight hundred and fifty-five, at the hour of twelve o'clock m., of said day, at the front door of the court-house in said county, I offered said premises for sale to the highest and best bidder for cash, and Robert Forsyth then and there bid for the same the sum of one hundred dollars; that being the highest and best bid therefor, I then and there struck off and sold said premises to him at that price.

Therefore, know all men by these presents, that I, George S.

Blakesley, master in chancery and commissioner, as aforesaid, in consideration of the sum of one hundred dollars, to me in hand paid by said Robert Forsyth, have granted, bargained and sold, by these presents do grant, bargain and sell unto the said Robert Forsyth, his heirs and assigns, the following described premises, to wit:

French claim number sixty three, (63,) in the village of Peoria, being the same lot confirmed to Antoine Lapance by act of Congress approved March 3d, 1823, and afterwards patented to legal representatives of said Antoine Lapance, together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining, to have and to hold the above described premises, with the appurtenances, unto the said Robert Forsyth, his heirs and assigns forever.

In witness whereof I have hereunto set my hand and seal this twenty-fourth day of January, A. D. 1855.

GEORGE S. BLAKELEY, [SEAL.]
Master in Chancery and Commissioner.

STATE OF ILLINOIS,
Peoria County, ss.

This day personally appeared before the undersigned, clerk of the circuit court in and for said county and State, George S. Blakeley, master in chancery in and for said county and State, whose name is subscribed to the foregoing deed, as such master and commissioner, and acknowledged that he had executed said deed for the purposes therein expressed.

Witness my hand and seal of said court, this 24th day of January, A. D. 1855.

JACOB GALE, *Clerk.*

Filed in the recorder's office of Peoria county, Illinois, February 3d, 1855, and recorded in book "L A," pages 182 and 183.

JACOB GALES, *Recorder.*

16. Plaintiff then offered in evidence a deposition of Narcisse Pensoneau, which is as follows:

Be it remembered that, on the thirtieth day of June, A. D. 1856, at Peoria, in the county of Peoria and State of Illinois, Robert Forsyth personally appeared before me, a United States commissioner in and for said district and State, and made oath that he is plaintiff in four suits then pending in the circuit court of the United States for the northern circuit and district of Illinois, wherein Thomas Mehan is def't in one suit, Richard Gregg in another suit, John Dredge, John A. Keys and Jesse Hester are def'ts in another suit, and Jesse L. Knowlton is defendant in another suit.

That the testimony of Narcisse Pensoneau, of Bellville, in the county of St. Clair, in the State of Illinois, and now in Peoria,

was material and necessary for the said plaintiff in the trial of each of such suits; and that he, the said plaintiff, lived in the county of St. Louis and State of Missouri, more than one hundred miles from Chicago, where the court at which the said plaintiff expected the said causes would be tried was appointed by law to be held; and that each and all of the above named defendants resided at the city of Peoria, in the county of Peoria and State of Illinois, more than 100 miles from Chicago, aforesaid; and that Charles Ballance, their attorney, resided at Peoria, in the county of Peoria, about one hundred and sixty miles from Chicago, aforesaid; and the said *Thomas* Forsyth requested me that the said witness, Narcisse Pensoneau, might be examined according to the directions of the act of Congress in such case made and provided. Whereupon, I ordered that the said Narcisse Pensoneau should be examined de bene esse, before me, at my office, in Peoria, in the county of Peoria and State of Illinois; and that one day's notice should be given to the said defendants, and each of them, or to their attorney, of such examination, *or* the end that he might, if he should see fit, be present at the examination and put interrogatories; and I having satisfactory proof that such notice had been given, and the said party plaintiff appearing before me, at my office in Peoria, in the county of Peoria and State of Illinois, on this thirtieth day of June, A. D. 1856, I have therefore proceeded with the examination; and the said Narcisse Pensoneau, being first carefully examined and cautioned, and duly sworn by me to testify the truth, the whole truth and nothing but the truth, says as follows:

Deposition of Narcisse Pensoneau in the above entitled case.

ROBERT FORSYTH }
vs.
THOMAS MEHAM. }

Examined by Plaintiff's Counsel.

My name is Narcisse Pensoneau; I live in Bellville, St. Clair county, Illinois, and my age is forty-one years. I recollect Antoine Lapance; I had but little acquaintance with him; he lived in St. Clair county. To the best of my recollection, he died between 1820 and 1830, and in St. Clair county. He left a widow and five children at his death. The widow's name was Magdaline; she is now the wife of Nicholas Godin, and married Godin before the year 1846. The oldest daughter of Lapance was called Monique, who afterwards married Basil Lecompte, before the year 1846; the second daughter was named Elizabeth, who, before the year 1846, married John Hebert, and Elizabeth died before 1846, and her husband, John Hebert, also died before 1846, leaving only one child, named John Hebert, who is still living. The other three children of Antoine Lapance, named Mary, Angilique and Basil, all died

minors before the year 1846, and all without issue. I am a subscribing witness to the deed now shown me, executed by Nicholas Godin, Magdeline Godin, Bazil Lecompte, and Monique Lecompte, and hereto attached, marked A. I signed my name to said deed as a subscribing witness thereto, and I also saw Vetal Jarrot sign the same deed, as subscribing witness, and Jarrot lives in St. Clair county, Illinois. I saw the aforesaid grantors in said deed sign the same, by making each their marks thereto. I knew Laurent Pensoneau; he was my brother; he died in the year 1848, I think, and left a widow, named Elizabeth, but no children. His father and mother were both dead at the time he died, but he left at his death brothers and sisters and descendants of brothers and sisters. The names of his brothers are, and at his death were, Edward Pensoneau, myself, Charles and Francis Pensoneau, and Paschal Pensoneau. He left no sisters living at the time of his death, but had had three sisters and one brother, who died before his death. Those three sisters were, first, Mary Louise, who married John Valentine, and died leaving only one child, named Mary Louise Valentine, who afterwards married Octave Byrnes, and was divorced from him before the year 1846; second, Mary Poupen, who Joseph married, Potier, and both Mary Poupen and her husband died before 1840, leaving only two children, named Mary and Joseph Totier, and Mary Trotier died without issue, about 1844, and Joseph Trotier is still living; third, Bridget Pensoneau, who married Amable Tramble, and Bridget and her husband Amble both died before 1846, leaving four children, of whom Louis and Francis died unmarried, leaving no issue, prior to 1853; and Adele, who married Gabriel Paran, and is now living in St. Clair county. The fourth child is a son, named Amable Tramble, who is still living, and of whom witness is the guardian. The other brother of Laurent Pensoneau, who died before the death of Laurent Pensoneau, was Louis Pensoneau, who died between the years 1825 and 1830, leaving only one child, called Louis P. Pensoneau, and who is still alive. I have had in my possession the original deed from Louis P. Pensoneau and his wife Sarah S., of which the annexed deed, marked "B," is a copy from the records. The original is lost or mislaid. I have searched for the original where it ought to be, but cannot find it after search.

NARCISSE PENSONEAU.

Marked "A," attached to Deposition of Narcisse Pensoneau.

This indenture, drawn and entered on this third day of January, in the year of our Lord one thousand eight hundred and forty-six, between Magdeline Glodon, wife of Nicholas Glodon, and Nicholas Glodon, Basil Lecompte and Monique, his wife, all of the county of St. Clair, State of Illinois, of the first part, and Laurent Pensoneau, of the same county and State, of the second part, witness-

eth: That for and in consideration of the sum of one hundred and twenty dollars, the receipt whereof is hereby acknowledged, the said party of the first part have granted, bargained and sold, and by these presents do grant, bargain, sell, quit-claim, transfer and convey unto the said Laurent Pensoneau, his heirs and assigns forever, all their right, title, and interest in and to certain lots or pieces of ground, in and adjoining the village of Peoria, in Peoria county, State of Illinois, to wit:

One lot, described in patent certificate of the receiver and register of the land office at Edwardsville, No. 24, for claim No. 64, which is an out-lot or field, containing about nine arpents of land, situated near the village of Peoria, bounded on the north by an out-lot or field of Felix Fontaine, and on the south by a field of Pierre La Vasseur, dit Chamberlan, being situated in the southwest fractional quarter of section No. nine (9), township No. (8) north, range No. eight (8), east of the fourth principal meridian, according to the survey approved the 1st September, A. D. 1840, by the surveyor of the public lands for the States of Illinois and Missouri. Also one other tract, contained in the aforesaid register and receiver's patent certificate No. 13, which is for claim No. 63, sixty-three, which is a village lot, confirmed, as well as the former tract, to Antoine Lapance, being eighty feet in front, more or less, by about three hundred feet in depth, (French measure,) and bounded northwardly by a lot occupied by Louis Binete; eastwardly by a street, separating it from the Illinois river; southwardly by unoccupied land, and westwardly by a street; the same being situated in the southwest fractional quarter of section nine (9), in township No. eight north, range No. eight (8), east of the 4th principal meridian, in the said village of Peoria, according to the same survey, above referred to: to have and to hold the same for his own proper use and behoof, the said Laurant Pensoneau, his heirs and assigns forever.

The said party of the first part aver, that when Antoine Lapance died, he left the said Magdaline Glodon, (then Magdaline Lapence,) his widow, and only five children, to wit: Monique, (now wife of Basil Lecompte,) Elizabeth, (afterwards wife of John Hebert,) Basil, Angelique and Marie. That Elizabeth and John Hebert, her husband Basil, Angelique and Marie, are now all dead; Basil, Angelique, and Marie died without issue. That Basil and Angelique died since A. D. 1840, and that Marie died about A. D. 1825; that Elizabeth and husband died in A. D. 1844, leaving one only child, John Hebert by name, aged about five years.

The said party of the first part further covenant, that they have never before sold their interest in said lands, and that they own the entire of said lands, except the interest of said John Hebert, minor.

In testimony whereof, the said party of the first part have

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hereunto affixed their hands and seals the day and year first above written.

NICHOLAS his ✕ mark. GLODON, [SEAL.]

MAGDELINE her ✕ mark. GLODON, [SEAL.]

BASIL his ✕ mark. LECOMPTE, [SEAL.]

MONIQUE her ✕ mark. LECOMPTE. [SEAL.]

Signed, sealed, and delivered in the presence of—
VITAL JARROT,
NARCISSE PENSONEAU.

STATE OF ILLINOIS,
St Clair County, ss.

I, Vital Jarrot, a justice of the peace in said county, do certify that Nicholas Glodon and Magdeline Glodon, his wife, Basil Lecompte, and Monique Lecompte, his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in, and who executed the same, did each acknowledge that they had executed the said conveyance for the uses and purposes therein mentioned; and the said Magdeline Glodon and Monique Lecompte, having each by me been made acquainted in the contents of the said deed, and examined separate and apart from their respective husbands, acknowledged that they had executed the same, and each relinquished and conveyed their rights to the premises therein mentioned, voluntarily, freely, and without compulsion of their respective husbands.

Given under my hand and seal this third day of January, in the year of our Lord one thousand eight hundred and forty-six.

VITAL JARROT, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, ss.

I, William McClintock, clerk of the county commissioners' court of the aforesaid county of St. Clair, do hereby certify, that Vital Jarrot, whose name is subscribed to the foregoing instrument of writing, was, at the time of signing the same, (namely, the third day of January, A. D. 1846,) an acting justice of the peace within and for the said county of St. Clair, regularly commissioned and qualified, and as such, full faith and credit are due and of right ought to be given to all his official acts.

In witness whereof, I hereunto set my hand and affix the seal of the said court, at office in Bellville, the 6th day of February, A. D. 1846.

[L. S.]

WM. McCLINTOCK,
Clerk C. C. C., St. C. C.

STATE OF ILLINOIS,
County of Peoria.

RECORDER'S OFFICE.

I, Charles Kettelle, recorder in and for the county aforesaid, do hereby certify the within deed is duly recorded in said office, in book "Q," pages 165 and 166, on this eleventh day of February, A. D. 1846.

CHARLES KETTELLE,
R. P. Co.

Marked "B," attached to Deposition of Narcisse Pensoneau.

This indeture, made and entered into this 23d day of June, A. D. 1851, between Louis P. Pensoneau and Sarah S. Pensoneau, his wife, heirs-at-law of Laurant Pensoneau, deceased, late of the county of St. Clair, State of Illinois, and Narcisse Pensoneau, witnesseth: That the said Louis P. Pensoneau, and Sarah S., wife, parties of the first part, have, for and in consideration of the sum of four hundred dollars, to them in hand paid, the receipt whereof is hereby acknowledged from the said Narcisse Pensoneau, party of the second part, and the said parties of the first part grant, bargain, and sell, and by these presents give, grant, bargain, sell, and forever convey unto the said party of the second part, his heirs and assigns forever, all the interest that they, the said parties of the first part, have, in and to the estate of said Laurent Pensoneau, deceased, as one of his heirs, in the following described lands, to wit: 65 acres taken off the southwest side of claim No. 1,832, in survey No. 571, situate in T. 2 N., R. 9 W., being the homestead of said deceased, and pt. E. $\frac{1}{2}$ N. E. fr'l $\frac{1}{4}$ of sect. No. 20, and part W. $\frac{1}{2}$ N. E. fr'l $\frac{1}{4}$ sect. 20, and part N. $\frac{1}{2}$ of S. W. $\frac{1}{4}$ sect. No. 20, and the N. E. fr'l S. E. $\frac{1}{4}$ of sect. No. 20, and the E. $\frac{1}{2}$ S. W. $\frac{1}{4}$ of sect. No. 21, all in township No. 2 N., R. 9 W., containing some one hundred and sixty-four acres, more or less; and two hundred and fourteen acres of the south $\frac{1}{2}$ of section No. 3, township No. 1 N., R. 9 W., all west of the 3d principal meridian, in St. Clair county, State of Illinois; and also all our interest in the following lots of land in the subdivision of the Cahokia commons, in the said county and State aforesaid, situate in T. 2 N., R. 9 W., which are known and designated on the recorded plat of said subdivision, as lots Nos. 16, 17, 18, 19, and 44; and also my interest as heir as aforesaid in and to a certain lot in town

of Peoria, county of Peoria, State aforesaid, of which the said Laurent Pensoneau died seized, known and designated as lot No. 63, (confirmed and patented to the heirs of Antoine Lapancin, dec'd;) and also, all interest that we now have or may hereafter have arising out of any lawsuits now pending or hereafter to be pending relative to the estate of said dec'd, in the county and State, that might be assigned to us, as one of his heirs-at-law, unto him, the said Narcisse Pensoneau, his heirs and assigns. And we, the said parties of the first part, covenant and agree with the said party of the second part, that we are fully entitled to the int's of our share of said estate herein sold unto him, the said Narcisse Pensoneau, herein conveyed said interest from all person or persons whatsoever claiming the same, in, through, or under us, unto said Narcisse Pensoneau.

In testimony whereof, we, the said parties of the first part, have hereunto signed our names and affixed our seals, the day and year first above written.

LOUIS P. PENSONEAU, [SEAL.]
SARAH S. PENSONEAU. [SEAL.]

STATE OF ILLINOIS,
County of St. Clair, sct.

I, John Scheel, clerk of the county court within and for the county of St. Clair and State of Illinois, hereby certify that Louis P. Pensoneau and Sarah S. Pensoneau, whose names are signed to the foregoing instrument of writing as having executed the same, are personally known to me to be the real persons who executed the same, and that they appeared before me, and severally acknowledged the said instrument to be their free act and deed for the purposes therein mentioned; and I further certify, that the said Sarah S. Pensoneau, wife of Louis P., was by me first made acquainted with the contents of said instrument, and examined separate and apart from her said husband, whether she had executed the same and relinquished her right of dower in and to the lands and tenements therein mentioned and described, voluntarily, freely, and without compulsion of her said husband, and that she thereupon declared that she executed the said instrument, and relinquishes her dower in the lands and tenements therein mentioned, voluntarily, freely, and without compulsion of her said husband.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court at office, this 27th day of June, [L. S.] A. D. one thousand eight hundred and fifty-one.

JOHN SCHEEL,
Cl'k of C. Ct.

Recorded June 27, 1851.

STATE OF ILLINOIS,
County of St. Clair, sct.

I, William S. Thomas, clerk of the circuit court, and ex officio recorder of deeds and other conveyances for the said county of St. Clair, and State of Illinois, hereby certify that the foregoing is a true and correct copy of the original, on record in my office in book "A," No. 2, page 112.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court at office, this 4th day of April, [L. S.] A. D. 1854.

WM. S. THOMAS, *Cl'k.*
By FRED. W. KARSCH, *Deputy.*

Filed in the recorder's office of Peoria county, Illinois, October 24, 1854, and recorded in book L A, pages 65 and 66.

JACOB GALE, *Recorder.*

And I certify that the exhibits marked "A," "B," were attached to the foregoing deposition by me, at the request of said witness, and I do further certify that the preceding deposition was reduced to writing by me, and signed by the said Narcisse Pensoneau, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

In testimony whereof, I have hereunto set my hand, and affixed my private seal the day and year first above written.

June 30th, 1856.

GEO. T. METCALFE, [L. S.]
U. S. Commissioner.

Which deposition was read without objection. All objections to the competency of the witness being waived by defendant, the plaintiff here rested.

And thereupon the defendants, to maintain the issue on their part, moved to exclude from the jury said patent to the legal representatives of Antoine Lapance, wich motion was overruled by the court.

2d. Defendant gave in evidence a duplicate receipt, signed Thos. Carlin, which is as follows:

Pre. Act 1834.

No. 13,293. RECEIVER'S OFFICE, QUINCY, ILLINOIS,
27*th November*, 1837.

Received from Charles Ballance, of Peoria county, Illinois, the sum of one hundred and eighty-four dollars and twenty-eight and ¾ cents, being in full payment for the southwest fractional quarter of section No. nine, township No. eight north of the base line, of range No. eight east of the fourth principal meridian, containing one hundred

and forty-seven acres and $\frac{43}{100}$ of an acre, at the rate of one dollar and twenty-five cents per acre.

$184 28¾. THO. CARLIN,
Receiver.

(Duplicate.)

Filed April 6th, A. D. 1854, and recorded in book G A, page 142.
JACOB GALE,
Recorder P. Co.

3d. He gave in evidence the register's certificate, which is as follows:

U. S. LAND OFFICE, QUINCY, ILLS.,
27*th November*, 1837.

I do hereby certify that Charles Ballance, of Peoria county, in the State of Illinois, did this day enter or purchase at this office the southwest fractional quarter of fractional section No. 9, in township No. 8 north, of range No. 8, east of the 4th pr. meridian, containing one hundred and forty-seven and $\frac{43}{100}$ acres.

Certificate No. 13,293, as appears of record in this office.
SAMUEL LEECH,
Register.

Filed April 6th, A. D. 1854, and recorded in G A, page 142.
JACOB GALE,
Recorder P. Co.

4th. He then read a patent, which is as follows:

The United States of America, to all to whom these presents shall come, greeting:

Certificate No. 13,293.

Whereas Charles Ballance, of Peoria county, Illinois, has deposited in the General Land Office of the United States a certificate of the register of the land office at Quincy, whereby it appears that full payment has been made by the said Charles Ballance, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the southwest fractional quarter of section nine, in township eight north, of range eight east, in the district of lands subject to sale at Quincy, Illinois, containing one hundred and forty-seven acres and forty-three hundredths of an acre, according to the official plat of the survey of the lands returned to the General Land Office by the surveyor general, which said tract has been purchased by the said Charles Ballance:

Now, know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted,

and by these presents do give and grant unto the said Charles Ballance, and to his heirs, the said tract above described, to have and to hold the same, together with all the rights, privileges, immunities and appurtenances, of whatsoever nature thereunto belonging, unto the said Charles Ballance, and to his heirs and assigns forever; subject, however, to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, the twenty-fourth day of January, in the year of our Lord one
[L. S.] thousand eight hundred and thirty-eight, and of the independence of the United States the sixty-second.

MARTIN VAN BUREN.

By the President:
By A. VAN BUREN, *Sec'y.*

Recorded vol. 3, page 114.

H, M. GARLAND,
Recorder of the General Land Office.

STATE OF ILLINOIS,
County of Peoria, Recorder's Office.

I, Charles Kettelle, recorder in and for said county of Peoria, do hereby certify the annexed patent from the United States to Charles Ballance, for the S. W. sec. 9, 8 N., 8 E., is duly recorded in said office in book P, page 478, on this 25th day of September, A. D. 1845.

CHARLES KETTELLE, *R. P. Co.*

5th. Plat of Ballance's addition to Peoria, which is as follows:

[*Far plat see original, page* 105.]

I, Charles Ballance, proprietor of the within addition to the town or city of Peoria, do hereby certify and acknowledge that the within a correct plat thereof, surveyed with my consent and under my directions, by George C. McFadden, county surveyor of Peoria county, in the State of Illinois, and that the said streets and alley are hereby vested in the board of aldermen of said city, for the use of the public: Provided, however, that I reserve to myself the right to enclose or keep enclosed, until the public interest shall require them to be opened, of which interest I am to be the judge, all said streets, except Adams, Water, Hudson and

Chesnut, and all the alleys except those below Adams street and above Chesnut street: Provided, further, that I reserve to myself, my heirs and assigns forever, the exclusive right of establishing bridges, ferriages, and fishing on said land, this survey notwithstanding.

In witness whereof, I have hereunto set my hand and seal this 10 April, 1846.

C. BALLANCE. [SEAL.]

STATE OF ILLINOIS,
County of Peoria, sct.

Personally appeared before me, Jonathan K. Cooper, a justice of the peace of said county, Charles Ballance, whose name is subscribed to the above acknowledgment, as having executed the same, and who is personally known to me to be the same, and acknowledged the execution thereof to be his free act and deed for the uses and purposes therein expressed.

Dated this 10 day of April, 1846.

JONATHAN K. COOPER, *J. P.*

I, George C. McFadden, county surveyor of the county of Peoria and State of Illinois, do hereby certify that the within plat is a true survey of Ballance's addition to the town of Peoria, as surveyed and laid off by me on the southwest quarter of section 9, T. 8 N., R. 8 E. of the fourth principal meridian, at the instance of said Ballance, the proprietor thereof, on the 10th day of February, 1846. All the streets, alleys, and blocks were by me accurately measured, and are of the dimensions specified on said plat. At the intersection of Walnut and Adams streets, it being the easterly corner of block No. 41, I planted a stone, from which to make future surveys. At all the other corners of blocks I caused stakes to be driven down, although the blocks are divided into lots of sixty feet each on the plat; no corresponding stakes were driven, it being deemed by the proprietor unnecessary.

Given under my hand, at Peoria, this 10th day of February, 1846.

G. C. McFADDEN,
C. S. P. C.

Variation allowed in making the above survey 7° 10′.

STATE OF ILLINOIS,
County of Peoria.

RECORDER'S OFFICE.

I, Charles Kettelle, recorder in and for said county, do hereby certify the within plat is duly recorded in said office, in book "Q," pages 305 and 306, this 24th day of April, 1846.

CHARLES KETTELLE, *R. P. Co.*

6th. A deposition of Almiron S. Cole, which is as follows:

Depositions of witnesses taken before me, Henry Grove, a notary

public in and for the city of Peoria, in the county of Peoria and State of Illinois, at the office of Grove & McCoy, in the city of Peoria and State of Illinois, on 25th day of June, A. D. 1857, to be read in evidence on the part of the defendant, in a certain action of ejectment pending in the circuit court of the United States of America, for the northern district of Illinois, wherein Robert Forsyth is plaintiff, and Richard Gregg is defendant, by agreement of parties. A. L. Merriman, esq., appeared on the part of the plaintiff, and Charles Ballance on the part of the defendant.

Almiron S. Cole, aged fifty-one years, being produced, cautioned, and sworn on part of the defendant, deposes and says:

I am fifty-one years old; I have lived in the town and city of Peoria twenty-one years, and have been acquainted with Charles Ballance for the same number of years; I am acquainted with the southwest fractional quarter of section nine, in township eight north, of range eight east of the 4 principal meridian, in the county of Peoria and State of Illinois. In the fore part of the year 1844, I leased part of said quarter from Mr. Ballance. The part I leased is now known as lot (3) three in block 47 in Ballance's addition to Peoria, and being two hundred feet front on the Peoria and Oquaka railroad, and extending back to the river. In February, 1844, I commenced building a distillery on the ground or lot leased from Ballance, and completed it and had it running in September of that year. I occupied the lot, distillery, out-buildings, about two years and a half, when I sold to Sylvanus Thompson, and assigned the lease to him. Thompson took possession at the time I sold and assigned to him, and kept possession until his death. Richard Gregg married one of Thompson's daughters during the time Thompson occupied said premises. Richard Gregg, one of the defendants in this suit, and son-in-law of Thompson, was in possession with Thompson, either as partner or as clerk, and said Gregg remained in possession until about a year ago. At the time I leased of Ballance, the lot leased was unenclosed; I fenced it after I leased it.

A. S. COLE.

And I, the said Henry Groves, a notary public in and for the city of Peoria, in the county of Peoria in the State of Illinois, do hereby certify that the said Aquilla Moffat and Almiron S. Cole, being carefully examined and cautioned, and duly sworn to testify the whole truth, and nothing but the truth, deposed as set forth in the foregoing deposition. And I do further certify, that the preceding depositions were reduced to writing by me, and signed by the said Aquilla Moffat and Almiron S. Cole, by agreement of counsel named in the caption of the deposition, at the office of Groves & McCoy, in the city of Peoria aforesaid, on the 25 day of June, A. D. 1857, and that I am not of counsel or attorney for

either party to the said suit, nor am I interested in the event thereof.

In testimony whereof, I have hereunto set my name and affixed my notarial seal, this 25th day of June, A. D. 1857. [L. S.]

HENRY GROVER,
Notary Public.

7th. A deposition of George T. Metcalf, which is as follows:

Be it remembered, that on the 19th day of July, A. D. 1856, at Peoria, in the county of Peoria and State of Illinois, Charles Ballance, esq., personally appeared before, a notary public in and for said county and State, and made oath that he was the attorney of the defendants in a suit then pending in the circuit court of the United States for the northern circuit and district of Illinois, wherein Robert Forsyth is plaintiff, and John Dredge and others are defendants.

That the testimony of George T. Metcalfe was material and necessary for the said defendants in the defence of such suit, and that he, the said Metcalfe, lived at Peoria, in the county of Peoria and State of Illinois, more than one hundred miles from Chicago, where the court at which the said affiant, Ballance, expected the said cause would be tried, was appointed by law to hold, and that Robert Forsyth, the above named plaintiff, resided in the State of Missouri, more than 100 miles from Chicago aforesaid, and that two of the plaintiff's attorneys were in Chicago aforesaid; that Julius Manning, the only other attorney of the plaintiff, was too sick to receive notice, and that notice was given to the person in charge of his office; and the said Ballance requested me, that the said witness might be examined according to the directions of the act of Congress in such case made and provided.

Whereupon I ordered that the said Metcalfe should be examined de bene esse before me, at his office, in Peoria county, of Peoria and State of Illinois; and I having satisfactory proof that such notice had been given, and the said Ballance appearing before me at the office of said Metcalfe, in the county of Peoria and State of Illinois, on this 19th day of July, A. D. 1856, I have therefore proceeded with the *the* examination, and the said Metcalfe being first carefully examined and cautioned and duly sworn by me to testify the truth, the whole truth, and nothing but the truth, says as follows:

ROBERT FORSYTH
vs.
JOHN DREDGE et als. } Ejectment.

Deposition of George T. Metcalfe. Examined by Defendants' Counsel.

My name is George T. Metcalfe; my age is upwards of forty

years, and I reside in the city and county of Peoria, in the State of Illinois; I am an attorney at law, in this State, and have been for nearly twenty years; I am a son-in-law of the late Lewis Bigelow, of Peoria, and was administrator on his estate, and I have had good deal of connection with and knowledge of the controversies growing out of the conflicting claims to the southeast quarter of section nine, township *township* eight north, range eight east, in said Peoria, and I know of my own knowledge that Isaac Underhill and Lewis Bigelow, from the time I first knew them in 1836, always denied that they held this title to said southeast quarter under any French claim or claimant, but under John L. Bogardus, and they always held possession adversely to the French claimants; and so far as I know, the same is true of all those who held under Bigelow and Underhill; I know that Charles Ballance, who holds some lots under Bigelow and Underhill, in said southwest quarter, holds them, and all other property he owns, which may be or is claimed by the French, against French claimants, and adversely to them, and has done so ever since I knew him, and more than fifteen years ago he procured from me to use in resisting and overturning all their claims on the southeast quarter aforesaid.

GEO. T. METCALFE.

And I do further certify, that the preceding deposition was reduced to writing by me, and signed by the said Metcalfe, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

In testimony whereof I have hereunto set my hand and affixed
[L. S.] my notarial seal, this 19th day of July, A. D. 1856.

GEORGE S. BLAKELEY,
Notary Public.

8th. A deposition of Isaac Underhill, which is as follows:

Be it remembered, that on the 19th day of July, A. D. 1856, at Peoria, in the county of Peoria, and State of Illinois, Charles Ballance, esq., personally appeared before me, a United States commissioner in and for said county and State, and made oath that he was attorney of the defendant in a suit then pending in the circuit court of the United States for the northern circuit and district of Illinois, wherein Robert Forsyth is plaintiff, and John Dredge and others are defendants.

That the testimony of Isaac Underhill and William E. Mason was material and necessary for the said defendant, in the defence of such suit, and that they, the said witnesses, lived at Peoria, in the county of Peoria and State of Illinois, more than one hundred miles from Chicago, where the court at which the said affiant, Ballance, expected the said cause would be tried, was appointed by law to hold, and that Robert Forsyth, the above named plaintiff,

resided at St. Louis, State of Missouri, more than 100 miles from Chicago aforesaid, and that two of the attorneys were in Chicago, about 160 miles from Peoria aforesaid, and that the other attorney of said plaintiff, Julius Manning, was too sick to receive notice, and that notice was given to the person in charge of his office, and the said Ballance requested me that the said witnesses might be examined according to the directions of the act of Congress in such case made and provided. Whereupon I ordered that the said Underhill and Mason should be examined de bene esse before me, at my office, in Peoria, in the county of Peoria, and State of Illinois, and I having satisfactory proof that such notice had been given and the said Ballance, attorney of defendants, appearing before me, at my said office, in the county of Peoria, and State of Illinois, on this 19th day of July, A. D. 1856, I have therefore proceeded with the examination, and the said Underhill and Mason, respectively, being first carefully examined and cautioned and duly sworn by me to testify the truth, the whole truth, and nothing but the trut, say as follows:

Isaac Underhill's Deposition.

Examined by defendants' counsel:

My name is Isaac Underhill; my age forty-eight years, and I reside in the city and county of Peoria, in the State of Illinois ; I first came to Peoria in 1833, and in 1834 I purchased the southeast quarter of nine, township eight north, range eight east, in Peoria county, of John L. Bogardus, and received a deed of conveyance from him therefor; at that time there were some houses on the tract, and a ferry landing, and I entered into the possession of these, claiming the whole tract.

Soon after, and within one month, I gave an interest therein to Lewis Bigelow, and we jointly held possession of the land and improvements till 1836, when the tract was surveyed and laid out in blocks and lots, and thereafter we continued to hold the possession until, from time to time, we sold lots to different persons, and gave possession thereof to such purchasers.

About the year 1841, lot one in block fifty, on said tracts of land, was sold to Aquilla Wren, and possession was given him, and since that time it has been in the possession of Henry Kahn, Thomas Wren, John McDougall, and William Kellogg, successively, who all held and claimed said possession under the title so derived from John L. Bogardus as aforesaid. About ten years ago there was a steam carding-machine on said lot, and for six or seven years past there has been a large warehouse on the lot.

The steam carding-machine remained on the lot till just before the present warehouse was built, and was taken away to make room for said warehouse.

I, and all the persons above named who held under me, held

possession of the lot under the Bogardus title, and adversely to the persons who claimed under what are called and known in Peoria as French claims. Previous to my aforesaid purchase of said land from Bogardus, he, the said Bogardus, had proved, and had been allowed a pre-emption right to said land under the pre-emption law of 5th April, 1832, but the land could not at that time be paid for by Bogardus, because no official plat of the land had been furnished by the surveyor general to the land office of the proper district.

In November, 1837, I procured from the surveyor general's office at St. Louis a duly certified plat of the said land, carried it to the land office at Quincy, Illinois, made full payment for the land in the name of John L. Bogardus, but with my own money, and received the usual duplicate certificate from the register and the receiver, in the name of John L. Bogardus, for the said land.

In the year 1838, a patent from the United States for said southeast quarter issued to said John L. Bogardus, containing, however, a clause which made said land subject to the claims of all persons claiming under the act of Congress of March 3, 1823.

No change of possession in regard to said southeast quarter, or any part thereof, was, however, made in consequence of the language of said patent, or for any other cause, but the said lot one, in block fifty, was held as theretofore it had been held, adversely to French claimants, and said lot has always been so held up to this time.

ISAAC UNDERHILL.

And I do further certify, that the preceding depositions were reduced to writing by me, and signed by the said Underhill and Mason, respectively; and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

In testimony whereof, I have hereunto set my hand and affixed my private seal, this 19th day of July, A. D. 1856.

GEO. T. METCALFE, [SEAL.]
U. S. Commissioner.

9th. A deposition of Aquilla Moffatt, which is as follows:

Deposition of witnesses taken before me, Henry Grove, a notary public, in and for the city of Peoria, in the county of Peoria, *in the county of Peoria*, and State of Illinois, at the office of Grove & McCoy, in the city of Peoria, and State of Illinois, on the 25th day of June, A. D. 1857, to be read in evidence on the part of the defendant in a certain action of ejectment pending in the circuit court of the United States of America for the northern district of Illinois, wherein Robert Forsyth is plaintiff, and Richard Gregg is defendant, by agreement of parties.

A. L. Merriman, esq., appeared on the part of the plaintiff, and Charles Ballance on the part of the defence.

Aquilla Moffatt, of the county of Peoria, being produced, cautioned, and sworn, deposes and says:

I am fifty-five years old; I have lived near the city of Peoria for thirty-five years; I have been well acquainted with Charles Ballance since 1832; I know that Ballance resides on the southwest fractional quarter of section nine, in township eight north, of range eight east of the fourth principal meridian, in the city and county of Peoria, and State of Illinois.

He has resided on that fractional quarter since June, A. D. 1844; he was engaged a couple of years in building his house before he moved into it, and before June, 1844.

Ballance claimed to be the owner of said fractional quarter, and was in possession of the same as early as 1832, and has cultivated parts of it from 1832 until the present time; Ballance moved from the yellow house on the southeast fractional quarter of the same section into the house he now occupies, situate on the southwest fractional quarter.

On cross-examination:

In 1832, Ballance had about half an acre enclosed on the southwest fractional quarter, and had the same in cultivation. The enclosure was above the road, now Water street, and about opposite, but a little above the Peoria and Oquaka Railroad Co.'s depot.

In 1832, he had no other enclosure on said fractional quarter that I know of. At the time Ballance built his house he had twenty acres, and perhaps considerable more, enclosed. The large enclosure was between Adams street and Water street, and include the small one.

At one time Ballance's fences on the upper side of said enclosure, and lower line of said quarter, extended across Water street and down to the river bank, so that the river bank constituted a part of his enclosure; as near as I can recollect, it was after Ballance moved into his present dwelling.

The enclosure was below the distillery formerly occupied by A. S. Cole.

A. MOFFATT.

And I, the said Henry Grove, a notary public in and for the city of Peoria, in the county of Peoria, in the State of Illinois, do hereby certify, that the said Aquilla Moffatt and Almiron S. Cole, being carefully examined and cautioned, and duly sworn to testify the whole truth, and nothing but the truth, deposed as set forth in the foregoing depositions. And I do further certify, that the preceding depositions were reduced to writing by me, and signed by the said Aquilla Moffatt and Almiron S. Cole, by agreement

of counsel named in the caption of the deposition, at the office of Grove & McCoy, in the city of Peoria aforesaid, on the 25th day of June, A. D. 1857; and that I am not of counsel or attorney for either party to the said suit; nor am I interested in the event thereof.

In testimony whereof, I have hereunto set my name and affixed
[L. S.] my notarial seal, this 25 day of June, A. D. 1857.

HENRY GROVE,
Notary Public.

10th. A deposition of Notley H. McKean, which is as follows:

Deposition of Notley H. McKean, taken before and by agreement of parties at my office in Peoria, on the 29th day of June, 1857, in the city of Peoria, State of Illinois, to be read in evidence in a certain cause pending in the United States circuit court for the State of Illinois, in the northern circuit and district, in ejectment, wherein Robert Forsyth is plaintiff, and Richard Gregg is defendant. On the part of defendant, A. L. Merriman appeared for pl'ff, and C. Ballance for def'ts.

Notley H. McKean, of the county of Tazewell *county*, aged 46 years, being produced, cautioned, and sworn by me, on the part of the defendant, deposeth and says:

I am forty-six years old; I first came to Peoria in September, A. D. 1837; I have known Charles Ballance since 1838; I have been acquainted with the southwest quarter of section nine, in township 8 north, of range 8 east, in the city and county of Peoria and State of Illinois, since April 1, 1839. Between the first day of April and the tenth day of that month, in the year 1839, I moved on to said quarter with my family, and lived thereon until the spring of 1854, except about 6 months in 1843. I first went on to said quarter in April, A. D. 1839, as a tenant under said Ballance. At that time Ballance had about six acres enclosed on that quarter, and in 1840 Ballance has enclosed from twenty-two to twenty-four acres on said quarter. The six acres enclosed was between Water street and Washington street. The six acres were cultivated in 1839, and from appearances I judged the six acres were enclosed some three years before.

Ballance, prior to April, 1839, had a pasture lot between the six-acre lot and the river that had been fenced. At that time, viz., April, 1839, Ballance had a double frame dwelling-house on said quarter, calculated for two families.

I moved into the double house, and continued to live therein with my family until the fall of 1841. There were three families in said house as tenants under Ballance. The house I moved into stood on what is now called Water street, in the city of Peoria, and now the Peoria and Oquaka railroad, and I should think less than one hundred yards above the distillery, built by A. S. Cole,

and for years afterwards occupied by Richard Gregg, the defendant. I continued on that quarter as Ballance's tenant for five years, from April, 1839. Said twenty-two acres enclosure was cultivated in 1840, and has been cultivated and occupied by Ballance, and those holding under or through him, from 1840 unto the present time.

In the year 1839 I purchased an acre of land on said quarter of Blalance, and built a house thereon in 1841, and moved into it with my family in the fall of 1841, and continued to reside in said last mentioned house with my family until the spring of 1854, except about 6 months in 1843, but I continued to cultivate the whole of the 22-acre field for five years as tenant for Ballance.

During the time I moved out of said house, in 1843, I had tenants residing therein with their families. Since I moved off from said quarter, in the spring of 1854, I have had a number of tenants in my houses on said acre purchased of Ballance.

Since I came to Peoria, Ballance has had tenants living on said quarter section continuously, and of late years has had a considerable number of them. Ballance at first lived on adjoining quarter section, but about the year 1842 he commenced building the house he now lives in, wich is a large and expensive brick residence.

In 1842 I dug the cellar. In the early part of 1844 he moved into it with his family, and has continued to reside therein since.

At the time I moved on to said quarter, in 1839, the fences around the field were old and dilapidated, so that it required considerable repairs before I could raise a crop. Said field was all on the upper side of the railroad or Water street; but the ground between that and the river had manifestly been fenced in, for part of the fencing materials between that and the river was still on the ground, and I, in the employment of said Ballance, removed them in enlarging said field. Said Ballance afterwards employed another man, Elias Wood, I believe, to fence in said land again by itself as a pasture—it being woodland. However, all this part of said tract of land has for several years been thrown open, and built upon by persons claiming under said Ballance. I remember well when A. S. Cole built a distillery on said tract, for I assisted him in getting the lumber for the same; and I remember that Jacob Lawrence was then, and for some time previously thereto had been, in possession under said Ballance of the portion of said tract lying between Water street and the river, and above the part occupied by said Cole. Said Lawrence was a man of a family, and lived on said land, and also had a slaughter-house on it. Said Lawrence was living in a house on said quarter section, belonging to said Ballance, when I went to live in Peoria, and lived in it until he built his own house between the river and Water street, and he continued to live in said last mentioned house until he sold out to one

A. W. S. Goodwin, and gave him possession. I know of Goodwin living on said lot and carrying on the lard-oil and candle business for several years thereafter. At one time said Goodwin only claimed to own a portion of said ground above where Cole built his distillery, because I had a title bond from Ballance for part, which I afterwards transferred to said Goodwin; but before said transfer of said bond, said Goodwin occupied it with the consent of Ballance and myself. Said Ballance claimed said quarter on which his said farm was improved as aforesaid, in his own right, and adversely to all the world, but particularly to that class of claims called French claims.

N. H. McKEAN.

UNITED STATES OF AMERICA,
State of Illinois, Northern Circuit.

I, Henry Grove, a notary public in and for the city of Peoria, in the county of Peoria, and State of Illinois, duly commissioned and qualified, do hereby certify that the above deposition was taken before me at my office, in the city and county of Peoria, and State of Illinois, on the 29th day of June, A. D. 1857; that said Notley H. McKean was first by me duly cautioned, examined, and sworn to testify the truth, the whole truth, and nothing but the truth in the cause mentioned in the caption; that said deposition was reduced to writing by me, and signed by said Notley H. McKean. I further certify that I am not of counsel for either party, and that I have no interest in this suit; that this certificate was written at my request by Joseph F. Wilson, my clerk, in consequence of ill health.

In testimony whereof, I have hereunto set my name
[L. S.] and notarial seal, at Peoria, the day and year first above written.

HENRY GROVE,
Notary Public.

11th. A deposition of Jacob Lorentz, which is as follows:

UNITED STATES,
Northern District of Illinois, ss.

Be it remembered, that on the thirtieth day of June, A. D. 1857, personally appeared at my office, No. 123 Lake street, U. S. courts, before me, John A. Bross, a commissioner appointed by the circuit court of the United States in and for the northern district of Illinois, in the seventh circuit, under the laws of the United States, to take affidavits and acknowledgments of bail, etc., Jacob Lorentz, to testify, and the truth to say, on the part and behalf of the defendants in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States in and for the nor. dist. of Illinois, wherein Robert Forsyth is the

plaintiff, and Jesse L. Knowlton and Charles Ballance are the defendants.

And the said witness being of lawful age, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, did thereupon depose, testify, and say as follows, viz:

My name is Jacob Lorentz; that I am forty-three years old; I reside in Peoria; I am a butcher by trade; I am acquainted with the southwest quarter of section nine, township eight north, range eight east of the fourth principal meridian, on which Ballance's addition to Peoria is located; I lived on a part of this ground; I had possession of it before I lived upon it; there was an old slaughter-house on it—old log-house which I used as a slaughter-house; this was in 1838; I got possession of Mr. Ballance; the piece of ground marked on Ballance's addition as lot two, in block forty-seven, is the piece of ground on which I had the slaughter-house.

The slaughter-house was on the end towards the river; there was a picket fence on the upper side of the tract above Water street I fenced.

In the spring of 1839 I fenced the lot (2) off to itself, by a good post and rail fence, and built a slaughter-house in the spring of 1839 on that portion towards the river.

I wouldn't positively swear when the dwelling-house was built; I think it was in 1839 or 1840; I moved into the dwelling-house in 1840; I resided there constantly till late in the fall of 1843, when I moved off; I conveyed to Goodwin and gave possession to him.

Goodwin was a man of family, and resided in that house, and lost one child to my knowledge; I couldn't positively state how long Goodwin resided there, but I think he was there three years; am not positive; I never saw the house empty since; for anything I know, it had been occupied all the time. While I lived below town I passed there, on an average, three times a week; knew of Mr. Trechler using the slaughter-house and soap factory; I understood from Trechler, while he occupied the lot, that he held under Goodwin; after Trechler was gone I asked a tenant who owned the property, and he said Mr. Goodwin; I was Mr. Ballance's tenant before I built my house, at the same time I was occupying lot two; I lived in a house above Water street, on the same quarter section where lots seven and eight in block forty-three now are; I lived in a house upon said lots as the tenant of said Ballance; this house is still standing; that was in 1839; the old log-house, which I first occupied as a slaughter-house, was built when I come to the country; it stood in the centre of what is now lot one, on the river bank; in 1838 I built a temporary enclosure for cattle around a block and a half, in which lot two in block 47 now is; it went

some distance below; in the spring of 1839 that fence was taken away, and I built a permanent fence around lot two; when I come there there had been some fencing below Cole's distillery; there were some remains of it running from Water street into the river; I saw a fence built on the lower line of that fraction, and across Water street; it was enclosed and had gates on; these fences joined Ballance's enclosure above the railroad; there was an enclosure around the house that I first lived in on block 44; that was cultivated that year; that house, for anything I know, has always been occupied ever since; I never heard anybody disputing Mr. Ballance's right to it; the front part of lot two, block 47, I cultivated as a garden; the other part, next to the river, I occupied as a slaughter-house; the slaughter-house stood on the river bank; I made a division fence between the slaughter-house and the dwelling-house; they were connected by gates; there was a smoke-house built by Goodwin, which I think is there yet; it stood about the centre of the whole piece of ground, and in the slaughter-house portion of the lot.

Cross-examined:

Don't think there was anybody residing on the slaughter-house portion of the lot two years ago; nobody ever lived on that portion of the lot, I think; don't know of anybody living there; don't know who occupied it two years ago; don't know who occupied any of lot two since the fire, which was three or four years ago, I think; I think I moved into town in the spring of 1848 from below town; to the best of my knowledge, Trechler went in when Goodwin went out; I think the enclosure referred to by Ballance was built somewhere from 1841 to 1844; I think it was not kept up after 1844; part of it went away in that year; the slaughter-house portion of the lot, I think, has not been enclosed since the fire; part of the fence is there yet.

Direct-examination:

I have lived in and near the city of Peoria ever since the year 1838; the man I found there in the dwelling-house, of whom I inquired who owned the lot after Trichler left, I took to be an Irishman; I knew it was not Trechler.

JACOB LORENTZ.

Sworn and subscribed to, this 30th day of July, A. D. 1857, before me.

JOHN A. BROSS,
U. S. C.

Circuit Court United States, Northern district of Illinois.

ROBERT FORSYTH
vs.
JESSE L. KNOWLTON and CHARLES BALLANCE.

I, John A. Bross, a commissioner of the circuit court of the United States in and for the northern district of Illinois, appointed by said court under the laws of the United States, &c., do hereby certify that the foregoing deposition was taken by consent of the parties in the caption of the said deposition named; that no notice of the taking of said deposition was made out and served. I further certify, that on the 30th day of July, A. D. 1857, I was attended by Merriman, of counsel for said plaintiff, and G. C. Ballance, for said defendants, and by said witness, who was of sound mind, and having been by me duly cautioned and sworn to speak the truth, and nothing but the truth, the deposition was by me reduced to writing in the presence of the said witness, and I have retained said deposition for the purpose of transmitting the same to the court, for which the same were taken. I further certify that I am not of counsel for either of said , nor in any manner interested in the event of said cause.

Given under my hand and seal, this 30th day of July, A. D. 1857.

JOHN. A. BROSS, [L. S.]
U. S. Com. Nor. Dist. Ill's.

11th. Clark B. Stebbins was sworn as a witness, who testified that he had resided in Peoria since July 1st, 1845; is well acquainted with the southwest quarter of section No. nine, in township eight north, of range eight east, of the fourth principal meridian; well acquainted with A. S. N. Goodwin; he was a man of family, and was residing on lot two of block forty-seven of Ballance's addition to Peoria, as it is now understood and described; thinks said Goodwin lived there nearly three years after witness came to live in Peoria; he moved from there, and lived awhile on Adams or Jefferson street, in Peoria, and then removed to St. Louis, where he has lived ever since; thinks he removed to St. Louis in the fall of 1849. A man by name of Twitchler took possession as tenant of Goodwin, before he left for St. Louis, of the end of lot 2 next the river, and occupied it till it was burnt, I think in 1851. It was used as a soap and candle factory, and for manufacture of lard-oil, and for the slaughtering business; and between these and the house on front end of lot was a smoke-house for curing hams; also a hog-pen, also occupied by Twitchler; think he occupied them 2 years, from 1849 to 1851. From the time Goodwin left in 1849, witness had the agency of said property, to collect rents and pay taxes, both on lot 2 and the southwesterly half of lot 1 in block 47 in Ballance's addition. So far as I can recollect, the house on lot 2 has never been vacant, but has been occupied by tenants of Goodwin. That part of lot 2 on which the factory stood has not been enclosed by a fence since the fire. The house was on one end of the lot, and the factory on the other. The smoke-house is on the lot yet. Witness continued to

exercise acts of ownership over the back lot after the fire, the same as before, and had the smoke-house locked after the fire and kept the key, and rented it to Jesse L. Knowlton for the purpose of curing hams. Knowlton was in possession of it in summer of 1855; Thomas Meehan was in possession of house; witness leased it to him, as agent of Goodwin. Witness had authority from Goodwin to take charge of *of* both lots, that is, S. W. half of lot 1 and lot 2, and in pursuance of his authority did take the charge of and pay taxes on both. He knows the taxes were all paid, from having paid them himself while he was Goodwin's agent, and from having seen the tax receipts for those paid by Goodwin before he was agent; has not possession of Goodwin's deeds or tax receipts. He knows Dredge, Hester, & Keys, who have a furniture factory on the northeasterly half of lot one, and who piled lumber on the ground in dispute, with my consent. They had a factory, worked by steam, that extended to the line dividing the portion of the lot occupied by them and the lot belonging to Goodwin.

Cross-examined:

Goodwin resided on lot 2 in July, 1845, when witness came to Peoria, and resided there, I think, 3 years, when he removed either to Adams or Jefferson streets, where he resided till 1849. The first tenant of the house occupied it a month. When Twitchler occupied the factory he did not live on adjoining lot, nor on this lot 2, unless it might have been one month, when he may have lived in the house on lot 2. He was a man of family, and resided somewhere in the neighborhood, but witness does not know where. Dredge occupied the S. W. half of lot one, by piling lumber on it, with witness's consent, and agreed to pay eight dollars per year for the privilege. Don't know of paying taxes of 1849; did pay taxes of 1850. I was agent of different parties in paying taxes. It often happened that taxes which I was to pay for my principals had been paid. I know nothing of payment of taxes, except that I paid all that I was called upon for on the lists in my hands. Lot one was never enclosed.

Defendant then gave in evidence a deed from Charles Ballance to Jacob Lorentz, which is as follows:

Recorded May 22d, 1840.

This deed, made and entered into this thirteenth day of April, A. D. 1840, between Charles Ballance of the first part and Jacob Lorenz (both of Peoria) of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of ninety dollars, to him in hand paid, the receipt whereof is hereby acknowledged, hath granted, sold, and conveyed, and by these presents doth grant, bargain, sell, and convey unto the said party

of the second part, his heirs and assigns, a certain lot of ground in the southwest fractional quarter of section No. nine, in township eight north of the base line, and range eight east, of the fourth principal meridian, bounded as follows, to wit: Beginning on the lower side of Water street, (the same being extended through said quarter section,) at such a point that a line being run at right to the Illinois river will strike the most *most* northeasterly part of said Lorenz's post and rail fence which encloses his butcher's yard; thence with said line to the said river; thence down said river, at right angles, forty-five feet; thence parallel with said first line to said street; thence along said street forty-five feet, to the place of beginning; together with all the appurtenances thereunto belonging or in any wise appertaining: to have and to hold the said lot of ground, with the appurtenances, to the said party of the second part, his heirs and assigns, for his and their own proper use and behoof, forever. And the said party of the first part, for himself, his heirs, executors, and administrators, the aforesaid lot of ground, with the appurtenances aforesaid, to the said party of the second part, his heirs and assigns, against the claims of all persons and of every , doth and will warrant and forever defend, by these presents.

In witness whereof, the said party of the first part hath hereunto set his hand and seal the date aforesaid.

CHARLES BALLANCE. [SEAL.]
JULIA BALLANCE. [SEAL.]

In presence of—
EDWARD DICKINSON.

STATE OF ILLINOIS,
Peoria County, sct.

I, Edward Dickinson, probate justice of the peace of said county, do certify that Charles Ballance and Julia, his wife, whose signature appears to the foregoing deed, and who are personally known to me to be the persons described in and who executed the said conveyance for the uses and purposes therein mentioned; and the said Julia Ballance having been by me made acquainted with the contents of the said deed, and examined separate and apart from her said husband, acknowledged that she had executed the same and relinquished her dower to the premises therein conveyed, voluntarily, freely, and without compulsion of her said husband.

Given under my hand and seal, this 14th day of April, 1840.

EDWARD DICKINSON, [SEAL.]
J. P. P. C.

STATE OF ILLINOIS,
Peoria County, ss.

I, Enoch P. Sloan, clerk of the circuit court and ex-officio re-

corder for the county of Peoria, do hereby certify that the foregoing is a full and correct copy from the records of a deed and of the certificate of acknowldgment thereof, as the same stand recorded on page 178, in *block* "L," in the recorder's office of said county.

[L. S.] Witness my hand and the seal of said court, this thirty-first day of July, 1857.

ENOCH P. SLOAN,
Clerk and Recorder.

Next a deed from said Ballance to said Goodwin, which is as follows:

JUNE 3*d*, 1848.

This indenture, made this twelfth day of May, in the year of our Lord one thousand eight hundred and forty-eight, witnesseth: That Charles Ballance and Julia Ballance, his wife, of the county of Peoria, and State of Illinois, parties of the first part, in consideration of the sum of one hundred and fifty dollars, to them in hand paid by Aaron S. W. Goodwin, of the county of Peoria, and State of Illinois, party of the second part, the receipt of which is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, sell, convey, and confirm unto the said party of the second part, his heirs and assigns, forever, a certain part of lot one, in block forty-seven, in Ballance's addition to Peoria, to wit:

A strip of forty-five feet wide and extending from Water street to the Illinois river, and adjoining the lot owned and occupied by said Goodwin:

To have and to hold the said premises, with all the appurtenances thereto belonging or in any wise appertaining, to the only proper use and behoof of the said party of the second part, his heirs and assigns forever. And the said parties of the first part, for themselves, their heirs, executors, and administrators, the aforesaid lot of ground, with all the rights, privileges, and appurtenances thereunto belonging, against the claims of every person and of all persons, to the said party of the second , his heirs and assigns, do and will warrant and forever defend.

In witness whereof, the said grantors have hereunto set their hands and seals, the day and year first above written.

C. BALLANCE. [SEAL.]
JULIA BALLANCE. [SEAL.]

STATE OF ILLINOIS,
Peoria County, ss.

Be it remembered that on this twelfth day of May, in the year of our Lord one thousand eight hundred and forty-eight, Charles Ballance and Julia, his wife, personally known to the undersigned, probate justice of said county, to be the identical persons who exe-

cuted, and whose names are subscribed to the foregoing deed of conveyance as having executed the same, came before me and acknowledged the same to be their voluntary act and deed for the purposes therein expressed. And Julia Ballance having been by me made acquainted with the contents of said deed of conveyance, and examined separate and apart from her said husband, acknowledged that she executed the same and relinquished her dower in the premises therein mentioned, voluntarily, freely, and without compulsion on the part of her said husband, and that she does not wish to retract the same.

In testimony whereof I have hereunto set my hand and affixed at my office, at this day and year first above written.

THOMAS BRYANT, *P. J. P.* [SEAL.]

STATE OF ILLINOIS,
Peoria County, ss.

I, Enoch P. Sloan, clerk of the circuit court and ex-offico recorder for the county of Peoria, do hereby certify that the foregoing is a full and correct copy from the records of a deed and of the certificate of acknowledgment thereof, as the same stand recorded on pages 495 and 496 in book "T" in the recorder's office of said county.

[L. S.] Witness my hand and the seal of said court, this thirty-first day of July, 1857.

ENOCH P. SLOAN,
Clerk and Recorder.

They then read in evidence to the jury a record of the circuit court of Peoria county, subjecting a portion of said quarter of land to sale for the taxes due the county of Peoria, and State of Illinois, for the year 1845, and a deed of nine acres of said land made to Charles Ballance as the purchaser at said sale; which said record and deed is as follows:

At a circuit court begun and held at the court-house, in the city of Peoria, in the county of Peoria, and State of Illinois, on Monday, the twenty-fifth day of May, in the year of our Lord one thousand eight hundred and forty-six; present, the Honorable Gustavus Koener, associate justice of the supreme court of the State of Illinois, by exchange with the Honorable John Dean Caton, associate justice of the said supreme court, and judge of the ninth judicial circuit.

STATE OF ILLINOIS,
Peoria County, ss.

Whereas Smith Frye, collector of said county, returned to the circuit court of said county, on the twentieth day of May, A. D. 1846, the following tracts and parts of tracts of land and town-lots, as having been assessed for taxes by the assessor of said county

of Peoria for the year 1845, and that the taxes thereon remain due and unpaid on the day of the date of the said collector's return, and that the respective owners have no goods and chattels within his county on which the said collector can levy for the taxes and costs due and unpaid on the following described lands and town-lots situated in the county of Peoria and State of Illinois, to wit:

Description.			Acres.	Tax.	Costs—cents.
Pt. S. W.....	9	8 N. 8 E. "	$105\frac{63}{100}$	63 36	22

Bounded as follows: Beginning at a point stone on the N. line of s'd S. W. quarter section 9, 2 W. of the N. E. corner thereof; thence running S. 48 deg. E. 56 poles to a stake in the middle of Adams street; thence 48 deg. W. along the middle of Adams street 19 poles to a stake; thence N. 80 deg. W. 17 poles to a stake; thence S. 48 deg. W. to the west line of said quarter section; thence south with s'd line to the southwest corner of s'd section; thence east to the Illinois river; thence up along the meander of said river to where a line between the S. E. and S. W. quar's of sec. 9, 8, N. 8 E. strikes s'd river; thence N. along said line to the N. E. corner of said q'r section, near S. W. Drom's house; thence west through said house to the place of beginning; the four first of said lines being run according to the apparent meridian, but the others according to the real meridian.

And whereas due notice has been given of the intended application for a judgment against said lands and town-lots, and no owner hath appeared to make defence or show cause why judgment should not be entered against the said lands and town-lots for the taxes, interest, and costs due and unpaid thereon for the year herein set forth; therefore, it is considered by the court, that judgment be and is hereby entered against the aforesaid tracts of land and town-lots, in the name of the State of Illinois, for the sums annexed to each tract or parcel of land or town-lot, being the amount of taxes and costs due severally thereon; and it is ordered by the said court, that the said several tracts of land and town-lots, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes and costs annexed to them severally, be sold as the law directs.

And afterwards, to wit, on the tenth day of June, A. D. 1846, there was issued out of said court, under the seal thereof, by the clerk of said court, a precept to the sheriff of said county of Peoria, for the sale of the lands under said judgment, which is in the words and figures following, to wit:

At a circuit court begun and held at the court-house, in the city of Peoria, in the county of Peoria and State of Illinois, on Monday, the twenty-fifth day of May, in the year of our Lord one thousand eight hundred and forty-six; present, the Honorable Gustavus Koerner, associate justice of the supreme court of the State of Illinois, by exchange with the Honorable John Dean Caton, associate justice of the said supreme court, and judge of the ninth judicial circuit.

STATE OF ILLINOIS,
Peoria County, ss.

Whereas Smith Frye, collector of said county, returned to the circuit court of said county on the twentieth day of May, A. D. 1846, the following tracts and parts of tracts of land and town-lots, as having been assessed for taxes by the assessor of said county of Peoria, for the year 1845, and that the taxes thereon remained due and unpaid on the day of the said collector's return, and that the respective owner or owners have no goods and chattels within his county on which the said collector can levy for the taxes, interest, and costs due and unpaid on the following described lands and town-lots situated in the county of Peoria and State of Illinois, to wit:

Description.			No. Acres.	Tax.	Costs—cents.
Pt. S. W.....	9	8 N. 8 E. "	$105\frac{63}{100}$	63 36	22

Bounded as follows: Beginning at a stone on the W. line of s'd S. W. quarter section 92 W. of the N. E. corner thereof; thence running S. 48 deg. E. 56 poles to a stake in the middle of Adams street 19 poles to a stake; thence N. 80 degrees W. 17 poles to a stake; thence S. 48 degrees W. to the west line of s'd quarter; thence south with s'd line to the southwest corner of s'd section; thence east to the Illinois river; thence up along the meanders of said river to where a line between the S. E. and S. W. quarter of sec. 9, T. 8, R. 8 E. strikes s'd river; and thence N. along said line to the N. E. corner of said q'r section, near Mr. Domus's house; and thence west through s'd house to the place of beginning; the four first of said lines being run according to the apparent meridian, but the others according to the real meridian.

And whereas due notice has been given of the intended application for a judgment against said land and town lots, and no owner hath appeared to make defence, or show cause why judgment should not be entered against the said lands and town lots for the

taxes, interest, and costs due and unpaid thereon for the year herein set forth:

Therefore, it is considered by the court that judgment be, and is hereby entered against the aforesaid tracts and parts of land and town lots in the name of the State of Illinois, for the sums annexed to each tract or parcel of land or town lot, being the amount of taxes and costs due severally thereon; and it is ordered by the court that the said several tracts of land and town lots, or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes and costs annexed to them severally, be sold as the law directs.

STATE OF ILLINOIS,
Peoria County, ss.

I, Jacob Gale, clerk of the circuit court of said county of Peoria, do hereby certify that the foregoing is a true and perfect copy of the report of the collector of said county for the taxes of the year 1845, returned into and on file in my office, and of the order of the said circuit court thereon.

In witness whereof, I have hereunto set my name, and the seal of said court at Peoria, in said county, this tenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

[L. S.]

JACOB GALE, *Clerk.*

Which process was returned into said clerk's office afterwards, to wit, on the twentieth day of June, A. D. 1846, with the said sheriff's return thereunder written, in the words and figures following, to wit:

Return.

STATE OF ILLINOIS,
Peoria County.

By virtue of the foregoing process I did, with the assistance of the clerk of the county commissioners' court, of said county of Peoria, attend at the court-house in the city of Peoria, in said county, on Tuesday, the sixteenth day of June, A. D. 1846, at the hour of ten o'clock a. m., and proceed to sell each lot or parcel of land, described in the foregoing list, (on which the taxes were not paid previous to the day of sale,) at public auction, or so much thereof as was necessary to obtain the amount of taxes and costs due on each, as specified in said list, by affirming the whole tract or lot of land for the amount of taxes and costs due thereon, and striking them off to the persons respectively who would pay the amount due on each tract of land or town lot for the least number of acres, or least quantity thereof, commencing with the first lot or tract of land in said list described, and proceeding in the order the same are therein described to lot number one, in block number

one, in the town of Peoria; and afterwards, at 3 o'clock p. m., of said day, adjourned the sale to 10 o'clock a. m. of June 17th, 1846.

And on June 17th, at ten o'clock a. m. I proceeded to sell, in like manner, the remaining lots of land and town lots described in said list, commencing at lot No. one, in block No. one, in the town of Peoria, and sold to lot number ten, in block number twenty-seven, in Hale's addition to Peoria, in said list, and afterwards adjourned the sale to ten o'clock a. m., of June 18th, 1846.

And on June 18th, 1846, at ten o'clock a. m., I proceeded to sell in like manner the remaining lots of land and town-lots described in said list to the end thereof.

The clerk of the said county commissioner's court kept a record of said sales, in which was entered each lot or parcel of land exposed to sale by me, as aforesaid, the name of the purchaser, his place of residence, and the quantity of land sold.

Dated at Peoria, this twentieth day of June, A. D. 1846.

SMITH FRYE,
Sheriff of Peoria County, and Collector for said County for Taxes of 1845.

STATE OF ILLINOIS,
Peoria County, ss.

I, Jacob Gale, clerk of the circuit court within and for said county of Peoria, do hereby certify that the foregoing is a full, correct, and complete transcript from the records of said court, of a judgment against the lands therein set forth, rendered by the said court at the May term, A. D. 1846, for the taxes thereon and costs for the year 1845, unpaid by the owner thereof; and also of the precept, issued to the sheriff of said county, for sale of said land on said judgment, and also of the said sheriff's return to said precept, as the same are of record and on file in my office.

In witness whereof, I hereto set my hand, and affix the seal of [L. S.] said circuit court, at my office in Peoria, this 2d day of January, A. D. 1856.

JACOB GALE, *Clerk.*

Know men by these presents, that whereas at the May term, A. D. 1846, of the circuit court of Peoria county, a judgment was obtained in said court in favor of the State of Illinois against a certain tract of land of one hundred and five acres and sixty-three hundredths of an acre, being part of the southwest quarter of section No. nine, in township eight north, of range eight east of the fourth principal meridian, bounded as follows, to wit:

Beginning at a stone on the north line of said southwest quarter section, nine-two poles west of the northeast corner thereof; thence running south forty-eight degrees east fifty-six poles to a stake in the middle of Adams street; thence forty-eight degrees west along

the middle of Adams street nineteen poles to a stake; thence north eighty degrees west seventeen poles to a stake; thence south forty-eight degrees west to the west line of said quarter section; thence south with said line to the southwest corner of said quarter section; thence east to the Illinois river; thence up along the meanders of said river to where the line between the southeast and southwest quarter of section nine, in township eight north, of range eight east, strikes said river; thence north along said line to the north-east corner of said quarter section near Mr. Donn's house; thence west through said house to the place of beginning. The four first of said lines being run according to the apparent meridian, but the others according to the true meridian, for the sum of sixty-three dollars and fifty-eight cents, being the amount of taxes, interest, and costs assessed upon the said tract of land for the year eighteen hundred and forty-five.

And whereas, on the sixteenth day of June, eighteen hundred and forty-six, I, Smith Frye, then sheriff of said Peoria county, by virtue of a precept issued out of the circuit court of the county aforesaid, dated the tenth day of June, 1846, and to me directed, did expose to public sale, at the door of the court-house in the county aforesaid, in conformity with all the requisitions of the statute in such case made and provided, the tract of land above described, for the satisfaction of the judgment so rendered as aforesaid; and whereas, at the time and place aforesaid, Charles Ballance, of the county of Peoria and State of Illinois, having offered to pay the aforesaid sum of sixty-three dollars and fifty-eight cents for nine acres of the east side of said tract of land, which was the least quantity bid for. The said tract of land was stricken off to him, the said Charles Ballance, at that price, and said sum was then and there paid to me by said Ballance:

Now, therefore, I, Smith Frye, late sheriff as aforesaid, for and in consideration of the said sum of money to me in hand paid by the said Charles Ballance, at the time of the aforesaid sale, and by virtue of the statute in such case made and provided, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said Charles Ballance, his heirs and assigns, the aforesaid tract of land and appurtenances: to have and to hold the said tract of land and appurtenances to the said Charles Ballance, his heirs and assigns forever, subject, however, to all the rights of redemption provided by law.

In witness whereof, I, Smith Frye, sheriff as aforesaid, by virtue of the authority aforesaid, have hereunto subscribed my name and affixed my seal, this tenth day of November, 1850.

SMITH FRYE, *Sheriff.* [SEAL.]

STATE OF ILLINOIS,
Peoria County, ss.

Be it known, that on the day of the date hereof, personally ap-

peared before me, Jacob Gale, clerk of the circuit court of said county, Smith Frye, who is personally known to me to be the real person whose name appears subscribed to the foregoing deed of conveyance, as having executed the same in the capacity of sheriff of said county, and acknowledged the execution thereof to be his free act and deed, for the uses and purposes therein expressed.

[L. S.] In witness whereof, I have hereunto set my hand and seal of said court the date aforesaid.

JACOB GALE, *Clerk.*

Here the defendants closed.

Plaintiff then introduced Albert F. Lincoln as a witness, who testified that he was in the occupancy of the northeast half of lot one in block 47 of said Ballance's addition as a manufactory of furniture. We leased this ground in the fall of 1851 of Mr. Ballance. In the spring of 1853, the soap, oil, and slaughtering establishment was destroyed by fire. In the spring of 1855, we (Fridley & Lincoln) sold out to Dredge, Hester & Keys, and gave the possession of our establishment to them. Previously, to wit, in the fall of 1854, Forsyth, the plaintiff here, called on us (Fridley & Lincoln) and wished to know if we were occupying, or wished to occupy, the southwest half of said lot. We told him we had not leased it of any one. He said he could lease it to us. We accepted a verbal lease from Forsyth after the soap factory was burnt down. We occupied until the spring of 1855, when we sold out to Dredge, Hester & Keys. This ground has never been occupied since he has been there by any one occupying Goodwin's house.

On cross-examination he says: It was the firm of Fridley & Lincoln that leased said N. E. ½ of lot one from said Ballance, and in 1855 sold their establishment to Dredge, Hester & Keys. Ballance sold the portion they had leased from him to Robert Forsyth, the plaintiff, and then they became his tenants. William Kellogg now claims the property under the Ballance title.

He, witness, never told Ballance, Goodwin nor Stebbins, that he designed to claim said property under Forsyth's adverse title.

Plaintiff then read in evidence a paper, purporting to be a copy of an application made by said Ballance to enter said land at the land office at Quincy, which is as follows:

27th day of November, 1837.

No. 13,293.

I, Charles Ballance, of Peoria county and State of Illinois, do hereby apply for the purchase of the southwest fractional qr. of section number nine in township number eight north, of range numbered eight east, of the fourth principal meridian, containing one hundred and forty-seven $\frac{43}{100}$ acres, according to the returns of the surveyor general, for which I have agreed with the register to

give at the rate of one dollar and twenty-five cents per acre: subject, however, to the rights of any and all persons claiming under act of Congress 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois."

C. BALLANCE.

I, Samuel Leech, register of the land office at Quincy, Illinois, do hereby certify that the frac'l qr. section above described contains 147 $\frac{43}{100}$ acres, as mentioned, and that the price agreed upon is $1 25 per acre.

Pre. act, 1834.

SAM'L LEECH, *Register.*

LAND OFFICE, QUINCY, *Nov. 9th*, 1854.

I, A. C. Marsh, register of the land office at Quincy, Ill., do hereby certify that the foregoing is a true and correct copy of the original application of Charles Ballance, now on file in this office.

A. C. MARSH, *Register.*

[*For map see original, page* 155.]

Plaintiff then called said Lincoln again, who said he had, at one time, occupied the smoke-house on said lot two, to put chairs in. He found it unoccupied and unlocked; he put a lock on it, and kept it locked two or three months.

Said Stebbins again called, said that said Goodwin had occupied said smoke-house in connection with his lard factory, and had a lock on it; some one forcibly broke the lock open. He afterwards put on the door of said house another lock, which after some time was also broken off. He then, in spring of 1855, leased said house to Jesse L. Knowlton, who put another lock on it and went into possession. Witness never knew of said Fridley & Lincoln putting any lumber on said premises. If they ever did so, it was without his permission and against his will. Said lot two was so situated that no access could be had to any of that portion back of the dwelling-house, including the oil and soap factories, butchering establishment, smoke-house, hog-pen and cow-shed, with passing over the strip of ground called the southwest half of lot one, in said block 47.

Whereupon the defendants asked the court to instruct the jury as follows, to wit:

"A."

U. S Circuit, Northern district of Ills.—July Term, A. D. 1857.

ROBERT FORSYTH
vs. } Ejectment.
JOHN DREDGE et al.

Defendants ask the court to instruct the jury, that the title exhibited by the defendants is superior in point of law to that exhibited by plaintiff.

2d. That the title of the defendant is a regular chain of title deducible of record from the United States, and if they believe from the evidence that defendants, and those under whom they received the possession, had been in the actual possession by residence of the premises in dispute more than seven years immediately preceding the commencement of this suit, and were still in such possession when this suit was brought, then plaintiff is not entitled to recover in this action.

3d. That actual possession by residence does not mean that the party shall have his house on the particular spot or parcel of ground plaintiff has thought proper to *sue*, but if *the* believe from the *indende*, that said Goodwin bought lot two, in block forty-seven of said Ballance's addition to Peoria, for the purpose of carrying on butchering and making soap, lard-oil and candles, and that the establishment for said purposes was on the back part of said lot, and the dwelling-house and garden on the front part, and the hog-pen and cow-stable between them, and there was no access to the back part of said lot, only by going over the ground in dispute, and that said Goodwin bought the ground in after he bought the other, and was in possession of it for the purpose of giving him access to, and that said Goodwin and those claiming under him did so occupy it, in connection with the part they hired, as an appurtenance to it, they were, in contemplation of law, in the actual possession thereof by residence.

4th. That it is a question of law well settled, that if a man buys and resides upon a tract of land, and while in such possession buys another tract adjoining him, his possession, in contemplation of law, at once extends over the new purchase, and it becomes a part of his residence.

5th. That if they believe from the evidence that said Goodwin and those claiming under him had buildings and fences on said lot two, and actually occupied it, and at the same time, under said deed from Ballance, exercised acts of ownership over the strip of said lot one in dispute, by claiming it and passing as the only accessible way of getting to their said works on said lot two; in short, if they constantly used it in such a way as for their business it was their interest, in their opinion, to use it for for more than seven years before the commencement of this suit; and if they further believe, that during all said seven years they paid all taxes that were assessed on said strip of ground in controversy, then the plaintiff cannot recover in this action.

6th. That the tax title presented by defendant is an absolute title in fee simple to the ground in dispute, if in their opinion it covers the same.

7th. That said title is at any rate title enough to lay the foundation of the bar, by the statute of limitations of seven years, with payment of taxes.

8th. That in proving the payment of taxes, it is not necessary to produce any tax receipt. It is sufficient, if it be proved by any credible witness who knows the fact.

9th. Although a survey may be necessary to locate and complete the title of claimants under said law of 1823, when the same was not bounded and located by said report of Register Coles in this case, yet, where the claim was definitely located and bounded by said report, no survey was necessary, and as a consequence the title rested on the passage of said law of 1823, and the statute of limitation of twenty years would commence running from the date of said law.

That the phrase "good faith," in the statute of limitations of 1839, means simply the absence of fraud in fact. That although the jury may believe from the evidence that said Ballance always knew of the claim, under the act of 1823, he is not guilty of a want of "good faith" within said statute, unless said Ballance had been guilty of some act of bad faith towards the defendant's title.

That whatever they may think of said Ballance's conduct, yet, as he had sold the premises in dispute more than seven years to Goodwin, more than seven years before the suit was commenced, it is necessary that bad faith be shown in said Goodwin to effect the defence under said law of 1839.

That said Dredge, Hester & Keys, having taken a lease under Goodwin's title, it was not competent for them afterwards to *"attan"* to plaintiff; and said witness, Lincoln, having afterwards bought an interest in the firm of said Dredge & Co., he was in the same attitude as to the matter of possession.

Which instructions, in the manner asked, the court refused to give; but instructed the jury substantially as follows:

B.

Instructions of the Court to the Jury.

FORSYTH
vs.
DREDGE et al.

1st. The acts of Congress of 1820 and 1823, in connection *both* the reports of the register, the survey in 1837, approved in Sept., 1840, and the patent of Feb. 1, 1847, conveyed the legal title of French claim No. 63, to the legal representatives of Antoine Lapance; the grant took effect, as to location, from the time of the approval of the survey.

2d. By the papers introduced in evidence on the part of the de-

fence, Ballance acquired no absolute title to French claim 63. The other title under the act of 1823 was the paramount title.

3d. In order to be protected under the law of 1835, Ballance, or those claiming under him, must have had possession by actual residence on the land in controversy for seven years next preceding the commencement of this suit.

4th. The Supreme Court of the United States have recently decided that a party holding such a title as the defendants show in this case, had the kind of title required by the statute.

5th. Whether or not there was an actual residence for seven years was a question of fact exclusively for the jury.

6th. If Ballance had his house on one part of the quarter, and his improvements extended over and included lot 63, so as to be connected with his residence, and to form a part thereof, or it was used in connection therewith, that would within the meaning of the law constitute actual residence. If Ballance built on one part of the quarter, and this lot 63 was left vacant, unoccupied, and unimproved, it would not, as to that lot, constitute an actual residence. If Ballance's tenants, or those claiming under him, actually resided on a lot adjoining lot 63 for seven years immediately preceding the commencement of this suit, and during all that time occupied lot 63 as a place of business and connected with their actual residence, that would constitute a residence within the meaning of the law, as to this lot in controversy.

It was proper for the jury to consider the circumstance of the subdivision of the land into blocks and lots by Mr. Ballance, in April, 1846, and whether that, in connection with the other facts in the case, constitute a severance of the particular lots and blocks so subdivided.

7. It was for the jury to determine whether the facts and circumstances in evidence made Ballance, or those claiming under him, actual residents of the lot in controversy for seven years before the commencement of the suit. If they did, then the defendants were within the protection of the act of 1835; otherwise not.

8th. The court refused to instruct the jury that the tax title introduced in evidence by the defendants was an absolute title, but instructed the jury that possession of the land in controversy by Ballance, or those claiming under him, for seven years next before the commencement of this suit, under a claim and color of title made in good faith, together with the payment of all taxes on the land for that time, would defeat the plaintiffs' case; that of the good faith the jury were to judge; that the payment of taxes might be proved otherwise than by the tax receipts.

To all of which decisions and rulings of the court defendants then and there excepted, and prays that this his bill of exceptions be sealed, signed, and made of record; which is done.

THOMAS DRUMMOND. [SEAL.]

NORTHERN DISTRICT OF ILLINOIS, *ss.*

I, William H. Bradley, clerk of the circuit court of the United States for said northern district of Illlinois, do hereby certify the foregoing transcript to be a true, full, and perfect copy from the record of all the proceedings which have been had in said court in said entitled cause of Robert Forsyth against John Dredge, John A. Keys, Jesse Hester, and Charles Ballance.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at my office, in Chicago, in said northern district, this twenty-eighth day of November, in the year of our Lord one thousand eight hundred and fifty-seven, and of our independence the 82d year.

[SEAL.]

WILLIAM H. BRADLEY, *Clerk.*

CIRCUIT COURT OF THE UNITED STATES,
Northern District of Illinois, sct.

ROBERT FORSYTH
vs.
JOHN DREDGE, JOHN A. KEYS, JESSE HESTER, and CHARLES BALLANCE. } Ejectment.

Be it remembered, that on the eighteenth day of July, in the year of our Lord one thousand eight hundred and fifty-nine, a writ of error in the above entitled cause was sued out of the office of the clerk of the circuit court of the United States for the northern district of Illinois, which said writ, together with the bond in appeal filed therein, reads as follows, to wit:

UNITED STATES OF AMERICA,
Northern District of Illinois, ss.

The United States of America to the Judges of the Circuit Court of the United States for the Northern district of Illinois, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said court before you, between Robert Forsyth and against John Dredge, John A. Keyes, Jesse Hester, and Charles Ballance, a manifest error hath happened, to the great damage of the said John Dredge, John A. Keyes, Jesse Hester, and Charles Ballance, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at

Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this fourteenth day of July, in the year of our Lord one thousand eight hundred and fifty-nine, and of our independence the 84 year.

[L. S.]

WM. H. BRADLEY, *Clerk.*

Endorsed: Filed July 18, 1859.

WM. H. BRADLEY, *Cl'k.*

Bond.

JOHN DREDGE, JOHN A. KEYS, JESSE HESTER, and CHARLES BALLANCE,
vs.
ROBERT FORSYTH.

In Error to the Circuit Court of the United States for the Northern district of Illinois—July Term, A. D. 1859.

Know all men by these presents, that we, Charles Ballance and Samuel Voris, are held and firmly bound unto the above named Robert Forsyth, in the sum of two hundred dollars, to be paid to the said Robert Forsyth, his executors or administrators; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals, and dated this 11th day of July, 1859.

Whereas the above John Dredge, John A. Keyes, Jesse Hester, and Charles Ballance, have prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above entitled cause, made in favor of said Forsyth by the said circuit court:

Now, therefore, the condition of this obligation is such, that if the above named John Dredge, John A. Keyes, Jesse Hester, and Charles Ballance, shall prosecute their said writ of error to effect, and answer all costs if they shall fail to make good their plea, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

C. BALLANCE. [SEAL.]
SAM'L VORIS, [SEAL.]
By his Att'y in fact, C. BALLANCE. [SEAL.]

Sealed, signed, and delivered in presence of—

Endorsed: Approved.

THOMAS DRUMMOND.

Filed July 18, 1859.

WM. H. BRADLEY, *Cl'k.*

And afterwards, to wit, on the twenty-second day of July, in the year of our Lord one thousand eight hundred and fifty-nine, a citation in said cause, with the acknowledgment of service endorsed thereon, was filed in the office of the clerk of the circuit court of said northern district of Illinois, and reads as follows, to wit:

UNITED STATES OF AMERICA, *ss.*

To Robert Forsyth, greeting:

You are hereby commanded and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court for the northern district of Illinois, wherein John Dredge, John A. Keys, Jesse Hester, and Charles Ballance, are plaintiffs, and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Thomas Drummond, one of the justices of said court, this fifteenth day of July, A. D. 1859.

THOMAS DRUMMOND.

I acknowledge service of the above citation, this 22d day of July, 1859.

ARCHIBALD WILLIAMS,
Att'y for Def't in Error.

NORTHERN DISTRICT OF ILLINOIS, *ss.*

I, William H. Bradley, clerk of the circuit court of the United States for the northern district of Illinois, do hereby certify, that the above and foregoing is a full, true, and complete transcript of the writ of error sued out in the case wherein Robert Forsyth was plaintiff, and John Dredge, John A. Keys, Jesse Hester, and Charles Ballance are defendants, together with the bond and citation filed therein, as the same appears from the originals now on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at office in the city of Chicago, this twenty-ninth day of July, A. D. the year of our Lord one thousand eight hundred and fifty-nine, and of our independence the eighty-fourth year.

[SEAL.]

WM. H. BRADLEY, *Cl'k.*

Filed 3d Oct., 1859.